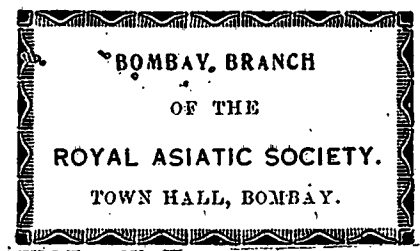




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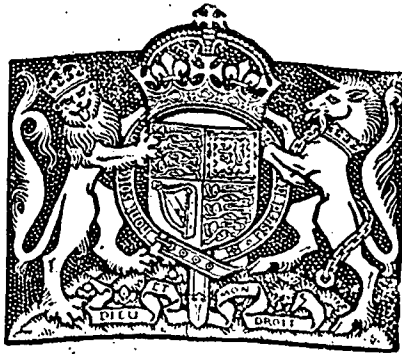


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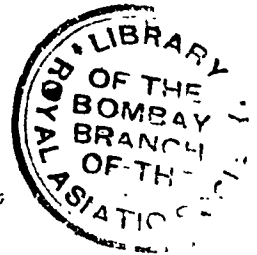
MINISTRY OF WORKS AND PLANNING

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EXPERT COMMITTEE ON
COMPENSATION AND
BETTERMENT

FINAL REPORT

*Presented by the Minister of Works and Planning to
Parliament by Command of His Majesty
September, 1942*



LONDON

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(ii)

EXPERT COMMITTEE ON COMPENSATION AND BETTERMENT

CONSTITUTION OF THE COMMITTEE

The Hon. Mr. Justice UTHWATT (*Chairman*).

Mr. JAMES BARR, a Vice-President of the Chartered Surveyors' Institution.

Mr. C. GERALD EVE, a Past President of the Chartered Surveyors' Institution.

Mr. RAYMOND EVERSLED, K.C.

*Mr. JAMES WYLIE, C.B.E., Barrister-at-Law.

With Mr. H. F. WILLIAMS, an Assistant Secretary to the Board of Inland Revenue, as Secretary, and, from June, 1941, Mr. F. SCHAFFER, of the Estate Duty Office, as Assistant Secretary.

* Mr. James Wylie, who died on 9th February, 1941, was unable to attend any meeting of the Committee owing to ill health.

TERMS OF REFERENCE

To make an objective analysis of the subject of the payment of compensation and recovery of betterment in respect of public control of the use of land :

To advise, as a matter of urgency, what steps should be taken now or before the end of the war to prevent the work of reconstruction thereafter being prejudiced. In this connection the Committee are asked

to consider (a) possible means of stabilising the value of land required for development or redevelopment, and (b) any extension or modification of powers to enable such land to be acquired by the public on an equitable basis ;

to examine the merits and demerits of the methods considered ;

and to advise what alterations of the existing law would be necessary to enable them to be adopted.

The estimated gross expenditure incurred by the Committee (including the cost of preparing and publishing the Interim Report) is approximately £903 3s. 8d., of which £312 12s. 2d. represents the cost of printing and publishing this Report.

TABLE OF CONTENTS

THE REPORT

Paragraph

PREFACE.

Page
1

PART I.

GENERAL ANALYSIS

CHAPTER I.—PRELIMINARY SURVEY

6	(1) Introduction	4
10	(2) Requirements of Reconstruction	6
12	(3) Evolution of Planning	8

CHAPTER II.—THE NATURE OF EXISTING DIFFICULTIES

18	(1) Introduction	12
21	(2) Undeveloped Land	13
23	Floating Value	14
26	Shifting Value	15
28	Summary	16
29	(3) Developed Land	17
32	(4) Principles of Compensation	19
37	(5) General Conclusions	22

CHAPTER III.—UNIFICATION OF LAND OWNERSHIP

39	(1) Approach	23
40	(2) Unification by Private Pooling Schemes	24
46	(3) Unification by Public Ownership	26
48	(4) Outline of Recommendations	27

PART II.

RECOMMENDATIONS

CHAPTER IV.—UNDEVELOPED LAND

56	(1) Introduction	31
58	(2) Statement of the Scheme recommended	31
58	(a) Acquisition of Rights	31
58	(b) Compensation	32
58	(c) Management	32
59	(3) General Effect of the Scheme	33
61	(4) Detailed Exposition	34
61	(I) The Restriction on Development	34
69	• • (II) The Area and Property affected by the Scheme	36
69	(a) Town Areas to be excluded from the General Scheme Area	36
70	(b) Exact Demarcation of the General Scheme Area	36
71	(c) Properties within the General Scheme Area which are to be excluded or which require Special Treatment	36
72	(i) Exclusion of Built-on Land where Buildings and Grounds do not exceed One Acre	37
74	(ii) Treatment of Dwellinghouses and Grounds in excess of the One Acre Limit	37
75	(iii) Industrial and Trade Premises	38
76	(iv) Churches, Schools, Hospitals, and other similar Institutions	38
77	(v) Inclusion of Common Lands, Sports Grounds, etc.	39
77	(a) Common Lands	39
77	(b) Sports Grounds, etc.	39
77	(c) Derelict Property	39
77	(d) Public Highways and Sterilised Land	39
78	(vi) Undeveloped land in Particular Ownerships	39
78	(a) Lands under the Management of the Commissioners of Crown Lands	39
78	(b) Lands held by Government Departments	39
78	(c) Lands held by Public Utility Undertakers	39
78	(d) Lands held by Local Authorities	39
79	(III) Compensation payable on Acquisition of Development Rights	40
79	(a) Assumption that Compensation will be paid and Suggestion as to the Nature of the Fund to be set up	40
80	(b) The Necessity that the Fund should be a General Compensation Fund	40
81	(c) Ascertainment of the General Compensation Fund	40
90	(d) Supplemental Fund to meet Exceptional Cases	42
91	(e) Distribution of the General Compensation Fund	43

Paragraph		Page
91	CHAPTER IV.—	43
92	<i>contd.</i> (i) General	
	(ii) Principles of Valuation of Individual Interests for the Purpose of Distribution of the General Compensation Fund	43
93	(iii) Unit of Valuation	43
94	(iv) Notice of Claim	44
95	(v) Rules of Valuation	44
95	(a) Rentcharges, Easements, etc., affecting the Land	44
96	(b) Valuation of Separate Interests in a Unit	44
97	(vi) Valuation Proceedings	44
100	(vii) Costs	45
101	(viii) Disposal of Compensation Fund in favour of Persons Entitled	45
	(IV) Management	45
102	(a) The Scheme to be managed by the Central Planning Authority	45
103	(b) Acquisition of Land for Development Purposes and Method of Disposition	45
107	(c) Compensation for Land Acquired and for Injurious Affection on Acquisition of "Owner's Interest"	47
108	(i) Compensation for Land Acquired	47
109	(ii) Compensation for Injurious Affection	48
109	(a) Principles	48
111	(b) Rules	48
111	(1) The Property to be considered	48
112	(2) Severance and other Injurious Affection to Lands (not including Buildings)	48
113	(3) Injurious Affection by User suffered in respect of Buildings	48
113	(a) When Buildings exist at Vesting Date	48
116	(b) Where Buildings are erected after the Vesting Date	49
117	(V) Various Miscellaneous Matters	50
117	(a) Surface Minerals	50
121	(b) Incidental Powers of Acquiring Land Excluded from the Scheme	51
121	(i) Derelict Land	51
121	(ii) Isolated Properties	51
121	(iii) Easements and Restrictive Covenants	51
122	(c) Treatment of Easements and Restrictive Covenants	52
124	(d) Effect upon Existing Contracts of the Vesting of Development Rights in the State	52
125	(5) Local Authorities and the Scheme	53
127	(6) Effect of the Scheme on Existing Planning Legislation	53
128	(7) Transitory Provisions directed to the Working of the Scheme before Settlement of "Town Areas" or the Question of Compensation for Development Rights	54
131	(8) Criticism of Two Alternative Suggestions	55
	CHAPTER V.—DEVELOPED LAND	
134	(1) Introductory	57
136	(2) Control during Interim Period	57
137	(3) Existing Methods of Redevelopment	58
138	(a) Town and Country Planning Act, 1932	58
139	(b) Housing Act, 1936	58
139	Redevelopment Areas	58
142	Clearance Areas	60
143	(4) Pooling Schemes as a Method of Redevelopment	60
144	(5) Recommendations	61
145	(a) War-damaged and other Reconstruction Areas	61
148	(b) Purchase for Acceleration of Planning	62
151	(c) Purchase in Advance of Requirements	63
152	(d) Purchase for Re-instatement	63
153	(e) Purchase for Recoupment	63
154	(f) Adjustment of Boundaries	63
155	(6) Finance	64

CHAPTER VI.—PROCEDURE FOR OBTAINING AND EXERCISING COMPULSORY POWERS OF ACQUISITION

157	(1) Introductory	64
160	(2) Existing Procedure and Recommendations	65
161	(a) Existing Procedure on obtaining Powers	65
163	(i) Procedure by Provisional Order	66
164	(ii) Procedure by Ministerial Order	66
165	(b) Existing Procedure after Powers have been obtained	66
168	(c) Objections to Existing Procedure	67
168	(d) Suggested New Procedure	68
174	(e) Modification of Existing Procedure upon Acquisition	69
175	(i) Service of Notice to Treat only on Persons whose Interests are required to be taken	69
176	(ii) Statement of Claim following Notice to Treat	70
177	(iii) Power of Entry on Land	70
177	(iv) Power to serve Notices to Quit	70
178	(v) Acquisition of Part only of Property	71
179	(vi) Acquisition from Persons under Disability	72
180	(vii) Necessity to show Failure to acquire by Agreement	73
181	(viii) Acquisition of Land from Statutory Undertakers	73
182	(ix) Roads	73

CHAPTER VII.—ASSESSMENT OF COMPENSATION ON ACQUISITION OF LAND AND FOR INJURIOUS AFFECTION

183	(1) Introductory	73
184	(2) Assessment of Compensation for Land Purchased	74
188	(a) Rules under the Act of 1919 and suggested Modifications	74
192	Exclusion of "Public Demand"	77
194	(b) Further Modifications	78
202	(i) Pre-War Standard of Values	79
203	(ii) Effect of War on Possibility of "Marriage" of Plots	81
204	(iii) Creation of New Interests	82
205	(iv) Sites of Stopped-up Highways	83
206	(v) Set-off	83
211	(3) Assessment of Compensation for Injurious Affection	83
212	(a) General	85
215	(b) Time for claiming Compensation	85
216	(c) Subsequent Change of User by Acquiring Authority	86
217	(d) Pre-War Standard of Values	87
218	(e) Compensation for Trade Disturbance—Excess Profits Tax	87
221	(f) Tribunal for assessing Compensation	87
224	(4) Arbitration Proceedings	87
225	(a) Appointment of Official Arbitrators	88
226	(b) Costs	89
227	(c) Proceedings before Arbitrator	90
227	(d) Right of Appeal	90
227	(e) Availability of Evidence	91
227	(5) Miscellaneous	91
227	Life of Buildings	91

CHAPTER VIII.—COMPENSATION FOR PLANNING RESTRICTIONS

229	(1) Introductory	92
230	(2) Town and Country Planning Act, 1932	93
231	(a) Present Compensation Provisions	93
232	(b) Principles of Existing Code	93
232	(c) Defects and Difficulties of Existing System, and proposed Remedies	94
233	General Observations	94
235	Provisions for which Compensation cannot be excluded	94
236	Recommendation of General Power to exclude Compensation	95
238	General Directions as to Exercise of Power to exclude Compensation	95
238	Specific Limitations on Power to exclude Compensation	96
239	(i) Permanent Reservation against Building	96
240	(ii) Prescription of Building Lines	97
252	(iii) Existing Buildings and Uses: Imposition of "Life"	97
253	(iv) Mineral Working	101
257	(3) Restriction of Ribbon Development Act, 1935	102
257	(4) Basis of Compensation—Pre-War Standard of Values	103

<i>Paragraph</i>	CHAPTER IX.—BETTERMENT	<i>Page</i>
258		104
259	(1) Definition	104
262	(2) Past and Present Betterment Legislation	106
263	(a) Sewers, Land Drainage and Sea Defence Acts	106
264	(b) "Melioration" under Acts of Charles II	107
265	(c) General Acts from 1831 to 1890	107
267	(d) London County Council Bills and Acts, 1890 to 1902	108
270	(e) General Acts since 1890 containing "Set-off" Provisions	110
271	(f) The Town Planning Acts, 1909 to 1932	112
275	(g) Modern Local Acts providing for the Recovery of Betterment	114
276	(3) Extent of Acceptance of the Principle	114
	(4) Present Methods of Recovery, their Defects and suggested Alternative Schemes	116
278	(a) Introductory	116
279	(b) Recoupment	116
284	(c) Set-off	120
289	(d) Direct charge	122
294	(e) Alternative Schemes considered	125
295	Defined Betterment Areas	125
296	Improvement Rates or Charges for Specific Improvements	126
299	Proposal of Mr. A. Noel Mobbs	129
301	Increment Value Duty under the Finance (1909-10) Act, 1910	130
302	Proposal of Sir Raymond Unwin	131
303	Proposal of Sir George Courthope	132
304	Levy on Increase in Value on Grant of Licence to develop, etc.	132
	(5) Recommended Scheme for Periodic Levy on Increases in Annual Site Values	135
308	(a) Introductory	135
311	(b) Outline of Scheme	136
312	(c) General Basis of Scheme	137
314	(d) Unit for Site Valuation	138
315	(e) Determination of "Annual Site Value"	138
	(f) Determination of Assessable Increment	139
317	Ascertainment of Gross Increment	139
319	Allowance for Owner's Improvements to Site	140
321	(g) Date for Initial Valuation	142
323	(h) Rate and Method of charging the Levy	144
324	(i) Relation of Levy to existing Methods of recovering "Betterment"	144
326	(j) Machinery	145
	(k) Application of Scheme to certain Classes of Property	147
329	Agricultural Land	147
331	Other Properties exempt from Rating	148
332	Property of Public Utility Undertakings	148
333	Undeveloped Sites in Urban Areas and Sites of Demolished or Destroyed Buildings	149
	(l) Incidence and Collection of the Levy	149
334	General Principle	149
	Application of the Principle	150
335	(i) Owner-occupiers	150
336	(ii) Leases existing at the "Specified Date"	150
339	(iii) Leases entered into after the "Specified Date"	151
340	(iv) Summary of Position as regards Leases	151
341	(v) Multiple Buildings in one Ownership	152
342	(vi) State Leases under the "Development Rights Scheme"	152
343	(vii) Unoccupied Property	152
344	(viii) Bare Sites	152
345	(m) Application to Scotland	152
347	(n) Conclusion	154
348	CHAPTER X.—UNIFICATION OF THE REVERSION	154
359	CHAPTER XI.—THE CENTRAL PLANNING AUTHORITY	156
367	CHAPTER XII.—SUMMARY OF RECOMMENDATIONS	157
	NOTE OF RESERVATIONS BY MR. JAMES BARR	167

APPENDICES

Appendix I	List of Organisations and Local Government Authorities from whom Evidence has been received	171
Appendix II	Formal Procedure for the Preparation and Bringing into Operation of a Planning Scheme under the Town and Country Planning Act, 1932	172
Appendix III	Provisions relating to Compensation and Betterment in the Town and Country Planning Act, 1932, and Compensation Provisions of the Restriction of Ribbon Development Act, 1935	174

EXPERT COMMITTEE ON COMPENSATION AND BETTERMENT FINAL REPORT

To The Right Hon. LORD PORTAL OF LAVERSTOKE, Minister of Works and Planning.

1. Our Committee was appointed in January, 1941, by your predecessor, Lord Reith of Stonehaven, with the following terms of reference :—

“ To make an objective analysis of the subject of the payment of compensation and recovery of betterment in respect of public control of the use of land ;

To advise, as a matter of urgency, what steps should be taken now or before the end of the war to prevent the work of reconstruction thereafter being prejudiced. In this connection the Committee are asked

To consider (a) possible means of stabilising the value of land required for development or redevelopment, and (b) any extension or modification of powers to enable such land to be acquired by the public on an equitable basis ;

to examine the merits and demerits of the methods considered ;

and to advise what alterations of the existing law would be necessary to enable them to be adopted.”

2. In the course of our enquiry we have received written statements from many bodies* representing local government, professional, private and general public interests and from the Government Departments concerned with the administration of the existing laws relating to the matters covered by our terms of reference ; in addition we have received a number of suggestions from individual members of the public. We have also taken oral evidence where we deemed it desirable for the elucidation of points of detail in the written statements.

We desire to express our thanks to all those who have given us the benefit of their views on the problems we have had to consider and who have so readily placed their experience at our disposal.

To a close examination of the evidence submitted to us, we have added a study of a body of other material comprised in the Reports of a number of Royal Commissions and Departmental Committees, and much miscellaneous published matter. We need only refer particularly to the Reports† of the Committee on the Acquisition and Valuation of Land for Public Purposes appointed by the Ministry of Reconstruction in 1917 under the Chairmanship of Mr. Leslie Scott, K.C., M.P., now Lord Justice Scott (hereinafter referred to as the “ Scott Committee ”), and the Report‡ of the Royal Commission on the Distribution of the Industrial Population appointed in 1937 under the Chairmanship of Sir Montague Barlow, Bart. (hereinafter referred to as the “ Barlow Commission ”).

3. Preliminary examination of our terms of reference convinced us that our enquiry would be a lengthy one, and, after considering in general outline the whole field, we presented an Interim Report§ in accordance with that part of

* A list of these bodies is given in Appendix I.

† Cd. 8998 and 9229 of 1918 and Cmd. 156 of 1919.

‡ Cmd. 6153 of 1940.

§ Cmd. 6291 of 1941.

our terms of reference which asked us to advise, as a matter of urgency, on any immediate steps which we felt were desirable to prevent the post-war reconstruction from being prejudiced. Briefly our recommendations were :—

(1) That the Government should forthwith declare, as a general principle, that payment of compensation in respect of the public acquisition or public control of land will not exceed sums based on the standard of "pre-war values," *i.e.*, values at 31st March, 1939; this basis to be adopted for such a period as will enable the long term policy of planning to be determined and any alterations in the present principles governing compensation to be brought into force.

(2) That, in the legislation which we assumed would be introduced at an early date to set up the Central Planning Authority which had been foreshadowed, provision should be made for vesting in that Authority the power of controlling building and all other developments throughout the whole country by reference to national planning considerations and with a view to preventing work being undertaken which might be prejudicial to reconstruction; such power to come into operation forthwith and to continue for some reasonable period after the end of hostilities while the broad lines of reconstruction are being worked out by or under the direction of such Authority.

(3) That areas which may possibly form the subject of a reconstruction scheme, *i.e.*, which ought to be considered for redevelopment as a whole, should be defined as soon as practicable, and that from the date when the control at (2) ceases to operate over all developed areas, no works of reconstruction or development within the specified "reconstruction areas" should be permitted, except with the licence of the Central Planning Authority (or any delegate authority), for a further reasonable period after the end of hostilities, during which period detailed reconstruction schemes are being worked out and the areas to which they apply are finally determined.

Our proposals regarding such areas were limited to preventing prejudicial development pending actual reconstruction. We did not make any detailed recommendations how that reconstruction should be carried out; though in paragraph 31 of our Report we indicated that, in our view, "no scheme for the replanning of these areas can be effectively carried through unless there is a power of compulsory public acquisition."

4. These interim recommendations were directed to safeguarding the position—in part by a Government warning and in part by positive legislative action—while our full recommendations were being framed. We may also recall that, in paragraphs 29 and 30 of our Interim Report, we stated that the scheme for the State acquisition of the development rights of all undeveloped land which is referred to in paragraphs 250–25C of the Barlow Report* was receiving our careful consideration, so that persons concerned should not in relation to undeveloped lands enter upon commitments which subsequently they might find themselves unable to carry out. Landowners and others have therefore had adequate notice that our enquiry might reveal the necessity for considerable changes in the land system of this country.

On the 17th July, 1941, Lord Reith announced in the House of Lords† the Government's acceptance of our recommendations, subject to the following qualifications :—

(i) As regards the suggested "March, 1939, ceiling" in relation to the compensation payable on the public acquisition or control of land "the

* Cmd. 6153 of 1940.

† House of Lords Reports, 17th July, 1941, cols. 849–854.

• detailed application of the principle requires consideration. Adjustments may be needed to meet particular cases, and the principle must be open to review, if circumstances arise which make its application inequitable."

(ii) As regards the prevention of prejudicial development pending reconstruction, "the Government thinks that any further safeguards necessary for the time being can be provided by strengthening the provisions of the Planning Acts, and it is proposed, in the legislation to be introduced to deal with the reconstruction areas, to make provision for this purpose." •

On the 21st April, 1942, Your Lordship stated in the House of Lords* that progress had been made with the drafting of the necessary legislation, but that it was considered better to await the Final Report of our Committee and the Report of the Committee on Land Utilisation in Rural Areas appointed in October, 1941, under the Chairmanship of Lord Justice Scott.

5. We have now completed our investigations and have the honour to submit our Final Report.

Subject to any qualifications specially mentioned, our recommendations are intended to apply to Scotland, though, for the sake of brevity, we have only referred to the English Acts where they have Scottish counterparts (*e.g.*, the Town and Country Planning (Scotland) Act, 1932). • In the same way we have, in general, only used English phraseology. •

* House of Lords, Daily Report, 21st April, 1942, col. 672.

PART I

GENERAL ANALYSIS

CHAPTER I

PRELIMINARY SURVEY

(1) INTRODUCTION

6. The object of our enquiry is twofold. First, to make an objective analysis of the subject of the payment of compensation and recovery of betterment in respect of public control of the use of land, and also, in view of the second part of our terms of reference, the subject of the payment of compensation on the public acquisition of land. Second, to advise what steps should be taken to prevent the work of reconstruction after the war from being prejudiced. The problem for which we are asked to find a solution is not the product of conditions arising out of the present war. It is one of long standing, and the need for its solution has become more acute in recent years. The Scott Committee appointed towards the close of the 1914-18 war "to consider and report upon the defects in the existing system of law and practice involved in the acquisition and valuation of land for public purposes" introduced their First Report with the following general summary of their task :—

"In approaching the general question of the acquisition of land for public purposes, it seems desirable to envisage clearly and comprehensively the general situation which will arise in this regard during the period of national reconstruction following the end of the war. Large schemes for providing housing accommodation will have to be undertaken by certain Public Departments and Local Authorities. Extensive proposals for the development of agriculture and forestry, and for the reclamation or drainage of land, will form an essential part of the reconstruction policy of the Government.

"Not less important for the revival and encouragement of productive industry will be the provision of effectual and well co-ordinated means of transport and access to natural and mineral resources. The increased use of electricity and water power as natural sources of energy, and the approaching development of aviation for commercial purposes, will give rise to many novel problems of importance to the Nation's productive capacity.

"For all these purposes as well as for the ordinary purposes of National Defence and administration, it will be essential that the particular pieces of land most suitable for the particular purposes should be made available for use in the public interest.

"It is clear that these numerous and possibly conflicting demands on a necessary commodity of limited extent must, by some means, be promptly met and fairly dealt with. Unnecessary delays or prohibitive expenses attaching to the acquisition of land essential for the purposes in question, would be liable to block the whole path of efficient reconstruction, and to stifle at their inception many valuable schemes of productive enterprise."*

7. That these paragraphs, although written in 1918, would form a fitting opening to our own Report, is a measure of the failure of the past twenty years to adapt planning policy and methods to the needs of the situation. The fact

* Cd. 8998, paras. 3 and 4.

that the general state of affairs we have to envisage differs in no essential feature from that which faced the Scott Committee imposes on us the necessity of making more than a superficial examination of the problems which, as Mr. George Hicks, Parliamentary Secretary to the Ministry of Works and Buildings, told the House of Commons on the 19th March, 1941,* "go right to the root of our economic life." It raises for examination the general question whether the measures of legislation in recent years designed to secure a better utilisation of land resources and to lead to an amelioration of the living conditions of the people, of which the Town Planning Acts and the Housing Acts are perhaps the most important, are based on a foundation adequate to ensure their successful operation. It constitutes a warning which cannot be ignored that the many problems involved may not be capable of solution by a system of patchwork amendments of the existing code of law or piecemeal adaptation of the existing procedure, and that a fundamentally new approach to the whole problem may be inevitable if a satisfactory basis is to be found for any adequate measures of reconstruction and post-war planning.

8. Historically, the first part of our terms of reference dealing with the subject of compensation and betterment arose out of the deliberations of the Barlow Commission† which was appointed in 1937. Evidence placed before the Commission revealed that "the difficulties that are encountered by planning authorities under the existing system of compensation and betterment are so great as seriously to hamper the progress of planning throughout the country"‡. It was clear to the Commission that their enquiry and their recommendations would be of little effective value if these difficulties were not removed, and they accordingly recommended that "in view of the important issues of finance and policy involved, the Government should appoint a body of experts to examine the question of compensation, betterment, and development generally"§ and to consider, in connection with such enquiry, certain schemes which had been suggested as possible solutions but upon which the Commission apparently felt it was not within their province to pronounce.

9. These difficulties, already acute in peacetime, are now thrown into sharper relief by the effects of the war, and the leisurely trend of opinion in favour of a more secure basis for planning has become an urge for action. Desirability has been turned into necessity. In announcing the appointment of our Committee, Lord Reith stated to the House of Lords:—

"In the debate of November 13th there was reference to the difficulties of compensation and betterment. Existing conditions have not worked satisfactorily. They have proved an obstruction to planning throughout the country. The [Barlow] Commission recommended that the subject should be remitted for expert examination. If it was important then, it is imperative now, with post-war reconstruction in view."||

It is evident, therefore, that the two branches of our terms of reference interlock; our objective analysis of the subjects of compensation and betterment has had to be directed not so much to a study of the subject as it presented itself to the Barlow Commission in pre-war days, as to a study of the position as it affects the post-war requirements of the country. The emphasis is on "reconstruction,"

* House of Commons Reports, 19th March, 1941, col. 186: "The problems to which we hope this Committee [the Uthwatt Committee] will offer some solution are ones which go right to the root of our economic life."

† The terms of reference of the Barlow Commission and their recommendations, so far as relevant to the present enquiry, are quoted in para. 15 below. Their Report was published in 1940—Cmd. 6153.

‡ Cmd. 6153, para. 248.

§ *Ibid.*, para. 250.

|| House of Lords Reports, 29th January, 1941, col. 259.

not only as an immediate necessity for repairing the devastation caused by the war, but also as a long-term measure. It is against that background that our enquiry has been conducted and against which our recommendations must be tested.

(2) REQUIREMENTS OF RECONSTRUCTION

10. It was thus clear to us that our first duty was to consider in broad outline the general requirements of the post-war reconstruction, and the scope and object of planning. If we had regarded these matters as outside our terms of reference our enquiry would have lacked positive direction, and we should have been in the position of having to frame proposals without reference either to the objective or to the type of planning organisation which our recommendations must be designed to serve.

11. In considering the post-war reconstruction, it is perhaps natural that the replacement of the buildings destroyed in the course of the war should be popularly regarded as the main objective. In many cases bombing has resulted in the destruction of isolated shops and houses or groups of buildings in areas otherwise undamaged, and for such properties straightforward rebuilding to the same lay-out may be the most satisfactory course. But where large areas have been laid waste they may well need to be replanned in the light of modern requirements. This cannot be done in isolation. The replanning must form part of a long-term policy for the whole of the town or city concerned, in which the plans for the devastated areas can be co-ordinated with plans for the adjoining parts. Moreover, quite apart from any question of war damage, there are innumerable areas in many towns and cities which urgently need modernising to meet present-day requirements and the reconstruction of which is, in many cases, recognised to be long overdue.

As an illustration of the last-mentioned type of area, we may quote the following extract from a paper by Mr. H. J. Manzonì (City Engineer of Birmingham) to the 1941 Conference of the Town and Country Planning Association. Dealing with the problems of large-scale redevelopment of towns and cities, the difficulties of which, he said, are very great under existing legislation, he went on—

“ Let me give you a catalogue of the contents of one such area of medium size—300 acres—taken from actual conditions :—

Nearly 11 miles of existing streets, mostly narrow and badly planned.

6,800 individual dwellings, the density varying locally up to 80 to the acre.

5,400 of these dwellings classified as slums to be condemned.

15 major industrial premises or factories, several of them comparatively recent in date.

105 minor factories, storage buildings, workshops, industrial yards, laundries, etc.

778 shops, many of them hucksters' premises.

7 schools.

18 churches and chapels.

51 licensed premises.

Many miles of public service mains, water, gas, and electricity, including over a mile of 42-inch trunk water main, nearly all laid under carriageways and consequently in the wrong places for good planning. Add to these a railway viaduct, a canal, a railway goods yard and a gas works, and you have a beautiful problem in redevelopment.

- "And yet this area must be rebuilt—it cannot be cleared and left derelict, it cannot be turned over completely to industry, if only because it is one of a number of more or less similar areas calling urgently for similar treatment and all adjoining and making up some ten or more square miles of the nation's source of wealth . . .

"It is possible, or indeed necessary, to introduce most of the amenities required by modern standards . . . properly planned communications, including parkways, segregation of industry and residential buildings, light, air and space, shops, schools, churches and places of amusement, parks, playing fields and licensed premises. All these can be fitted in by a careful exercise of space economy. The replanning of roads alone, in this particular instance, will yield no less than 20 acres of surplus land.

"Even when such redevelopment areas are planned we have still to link them together within the conurbation, or perhaps to separate them adequately; and here, perhaps, we may dare to think eventually in terms of open land reverting to agricultural use."*

This description of the problem as it appears in the City of Birmingham may be taken as broadly typical of many towns and cities which developed during the Industrial Revolution when requirements of traffic, industry and housing were very different from those of to-day, when the provision of amenities for the health and recreation of the people were far removed from the thoughts of those concerned in development, and when unrestrained profit-seeking was the dominating impulse of the age. The complete reconstruction of such areas is as important as the rebuilding of war-devastated areas and, in our view, the tasks cannot be treated as separate and distinct but should be regarded as different parts of a single problem.

Yet this aspect of post-war reconstruction is only a small part of the whole picture. The requirements of agriculture, the location and re-establishment of industry for peace-time production, the de-congestion of built-up areas, the building of adequate housing accommodation, the provision of open spaces, green belts and other amenities, the development and concentration of public utility services, the overhaul of our transport and communication system, the requirements of a post-war development in civil aviation and the relation of these matters to the demands of future defence—all these are problems which will have to be considered when plans for the post-war period are being formulated. It will also be appreciated that, with the greatly increased and speedier means of communication, all parts of the limited area of this country are rapidly reached, and now are more dependent the one upon the other. It is, accordingly, fundamental to make use of the relatively small area available to achieve properly balanced and co-ordinated planning of the whole as compared with the confused development in the past in an isolated and regional manner. Many of the problems lie purely in the economic sphere, but the economic and physical aspects are closely related and, in so far as the various requirements of economic reconstruction will involve the use of land, it is part of our duty to ensure that our recommendations provide a suitable basis for whatever policy may be adopted so that it may be freed from any elements which might "hamper, prejudice or delay"† its effective execution. We are not concerned with the

* "Replanning Britain," Faber & Faber, 1941, pages 98-99.

† In the course of the debate which followed the announcement of our appointment as a Committee, Lord Reith made it clear that the words "being prejudiced" in our terms of reference included anything which might "hamper, prejudice or delay" the work of reconstruction (House of Lords Reports, 29th January, 1941, cols. 260-262.)

actual decisions of policy that may be taken but we are bound to assume that all the matters enumerated above will be the subject of State direction or control.

(3) EVOLUTION OF PLANNING

12. For a proper consideration of the machinery necessary to serve requirements such as those set out in the previous paragraph it is desirable to examine the history of planning and the type of planning organisation so far established and available.

The conception of the planned use of land was first given statutory recognition in the Housing, Town Planning, etc., Act, 1909. Although it was limited to "land in course of development or likely to be used for building purposes," and was largely negative in character, that Act nevertheless represented a considerable measure of social progress in that it modified the existing freedom of a landowner to develop his land in whatever manner he pleased subject only to compliance with Public Health and Building Acts and bye-laws and the common law of nuisance.

Under the 1909 Act the planning authorities were the councils of boroughs and urban and rural districts, but the Housing, Town Planning, etc., Act, 1919, authorised two or more such councils to set up a joint committee for the preparation of a planning scheme. The existing planning law was consolidated, with further amendments, by the Town Planning Act, 1925, and by the Local Government Act, 1929, county councils were empowered to take part in planning, either by becoming constituent members of joint committees or by accepting planning powers relinquished by district councils. These extensions of planning powers to authorities with wider boundaries were not, however, matched by any extension of the type of land over which the powers could be exercised, and, as a result of experience, demands were made from many quarters that planning powers should be extended to cover (i) built-up areas which might be reconstructed, for which it was essential that there should be a properly formulated scheme of development, and (ii) rural areas which had been made more accessible by the development of transport facilities and which had been or might be robbed of their amenities by indiscriminate or undesirable building, but which did not fall within the definition of land likely to be used for building purposes. These demands were met by the Town and Country Planning Act, 1932, which authorised the making of planning schemes for any land, whether built on or not, and whether in town or country, subject only to the exclusion, except where expedient to round off a scheme, of built-up land unlikely to be redeveloped and land so remote as not to need planning (*i.e.*, "static areas"). This Act is at present the governing statute.

13. The system provided by the 1932 Act (as by its forerunners) is essentially one of local planning, based on the initiative and financial resources of local bodies (whether individual local authorities or combinations of such authorities) responsible to local electorates. The Ministry of Health has exercised certain powers of central control, but the structure of the legislation makes it clear that the powers conferred on the Ministry were regarded by Parliament as regulatory and restrictive of the action of the local planning authorities rather than as positive and constructive. The Ministry has had no effective powers of initiative nor the power of financial assistance, and, as can be seen from the language of the Act, its function has been largely that of a quasi-judicial body to secure fair play to owners of property.

•14. Although this system has constituted a valuable and necessary measure of control over the use of land, it has certain general defects of which the most important are :—

(i) The planning powers contained in the 1932 Act are permissive only.* A comparatively small proportion of the total area of Great Britain is covered by operative planning schemes,† and there are large areas of countryside and certain important towns and cities in respect of which the local planning authority has not even taken the first step of passing a resolution to prepare a planning scheme.

(ii) As already indicated a planning scheme is, under the limitations of the 1932 Act, necessarily local, not national in its outlook. The local authorities, responsible as they are to local bodies of electors, naturally consider questions of planning and development largely with a view to the effect they will have on the authorities' own finances and the trade of the district. Proposals by landowners involving the further development of an existing urban area are not likely in practice to be refused by a local authority if the only reason against the development taking place is that from the national standpoint its proper location is elsewhere, particularly when it is remembered that the prevention of any such development might not only involve the authority in liability to pay heavy compensation but would, in addition, deprive them of substantial increases in rate income.

(iii) The planning powers of local authorities under the 1932 Act are largely regulatory in character and do not, except to a limited degree, enable them to undertake or secure positive development; in effect "a planning scheme secures that, if development takes place, it shall take place only in certain ways; it does not secure that in any particular part of the area of the scheme it will in fact take place".‡

* The Housing, Town Planning, etc., Act, 1919, made it the statutory duty of every borough or urban district with a population of more than 20,000 to prepare a scheme and submit it to the Ministry of Health before a certain date, but this provision, though included in the consolidating Town Planning Act of 1925, was repealed by the Act of 1932.

Since 1919 the Minister has had power, if satisfied after a local enquiry that a scheme is needed in any area, to require the authority to prepare a scheme, and if they fail to comply, he may prepare it himself, but in practice these powers have not been exercised—see Report of the Town and Country Planning Advisory Committee on the Preservation of the Countryside, July, 1938, para. 36.

† The relevant statistics as at June, 1942, are as follows :—

	Total acreage.	Acreage covered by operative planning schemes.	Acreage in respect of which resolutions to plan approved, but schemes not yet operative.
England ..	32,209,112	1,664,862 (5%)	23,609,740 (73%)
Wales ..	5,139,108	55,187 (1%)	1,870,078 (36%)
Scotland ..	19,453,618	89,409 (.4%)	1,711,553 (9%)
Totals ..	56,801,833	1,809,458 (3%)	27,191,371 (48%)

‡ Report of Departmental Committee on Garden Cities and Satellite Towns, 1935, Note A. In the "Notes on the Preparation of Schemes" issued by the Ministry of Health, it is stated that "the preparation of a scheme does not imply any intention to promote active building development on the land to which it refers or any anticipation that development will necessarily occur in the near future. Its objects are to control and guide development when it occurs by laying down a broad outline to which that development should conform and to preserve existing features of value."

15. It has become increasingly obvious that the planning system so far evolved, handicapped as it is by the general defects referred to and the absence of central positive direction, is inadequate to secure the best social use of the land of the country. Moreover, the evolution of planning principles and practice has not kept pace with the economic, industrial or strategical requirements of the community. The emergence during the twenty years following the 1914-18 war of certain new social problems caused largely by the migration of population from the depressed areas and the increasing concentration of industry and population in certain towns and cities, culminated in the appointment in 1937 of the Barlow Commission.

By their terms of reference the Commission were asked

"to inquire into the causes which have influenced the present geographical distribution of the industrial population of Great Britain and the probable direction of any change in that distribution in the future; to consider what social, economic or strategical disadvantages arise from the concentration of industries or of the industrial population in large towns or in particular areas of the country; and to report what remedial measures, if any, should be taken in the national interest".

The Commission, after a long and detailed investigation, expressed their first two conclusions as follows:—

(1) In view of the nature and urgency of the problems before the Commission, national action is necessary.

(2) For this purpose, a Central Authority, national in scope and character, is required.

They accordingly recommended the establishment by Statute of a National Authority for the purpose of making research into, advising upon, and regulating the location of industry. The Commission also agreed that the objectives of national action should include (a) the redevelopment of congested urban areas, (b) the decentralisation or dispersal of industries and industrial population from such areas and (c) the encouragement of a reasonable balance of industrial development throughout the various divisions or regions of Great Britain, coupled with appropriate diversification of industry. In pursuance of these objectives they were of the opinion that the Central Authority should consider in what areas decentralisation was desirable, and the possible methods by which it might be achieved, bearing in mind the requirements of industry in respect of labour supply, markets, transport and power, the social and amenity needs of the communities, and strategical considerations. They also agreed that the Central Authority should have the right to inspect all existing and future Planning Schemes with a view to their modification or correlation in the national interest, and should have the duty of conducting research and collecting information as to the various natural resources—land, agriculture, amenities, etc.—that might be affected by industrial location. They expressed the view that municipalities should be encouraged to undertake necessary development, on a regional rather than on a municipal basis, and that financial assistance should be available from Government funds in cases of such development approved by the Central Authority.*

The advance towards a new conception of planning under positive central direction crystallised in these recommendations of the Barlow Commission marks a turning point in the evolution of planning in this country. It must, as it seems to us, be accepted from these recommendations that the character and situation of all future development, whether domestic or industrial, must ultimately be

* The nine conclusions which were accepted unanimously by the Commission, and of which the above is a summary only so far as relevant, are set out in para. 428 of the Barlow Report, Cmd. 6153.

governed by considerations such as the distribution of the population, the problems of defence and communications and the claims of agriculture. And from this it follows that private and local initiative must be subjected to State control. This necessary conclusion does not involve the suppression of individual initiative and enterprise, but it does involve acceptance of the view that the State must determine the areas in which they may operate.

16. In our Interim Report we referred to the statement made by Lord Reith on the 26th February, 1941,* that in his preparatory work for the post-war reconstruction of town and country he was authorised to proceed on the following assumptions: "(1) That the principle of planning will be accepted as national policy and that some central planning authority will be required; (2) that this authority will proceed on a positive policy for such matters as agriculture, industrial development and transport; (3) that some services will require treatment on a national basis, some regionally and some locally"; and we stated that we had at an early stage in our enquiry become firmly convinced that a central planning authority with a positive policy for such matters as town and country planning, agriculture, industrial development and transport was essential to an effective physical reconstruction of this country after the war.

Lord Reith on the 11th February, 1942†, and Your Lordship on the 21st April, 1942,‡ intimated the Government's definite acceptance of the principle of national planning under a Central Planning Authority, and explained the Government's proposals for establishing that Authority, towards which the first step has now been taken by the passage of the Minister of Works and Planning Act, 1942, transferring the town and country planning functions formerly exercised by the Minister of Health in England and Wales to the Minister of Works and Buildings under his new title of Minister of Works and Planning. Ministers have stated that this is a first step only and we have tried to make clear the far-reaching consequences which must follow. Many important matters in connection with the new planning policy remain to be determined. Some of them lie outside our terms of reference. We are not concerned, for example, with the measures which may be adopted, whether long-term or short-term, in relation to particular objects of national planning. These must be dictated largely by economic conditions, and although, as we have indicated, we have had to bear in mind the possible ways in which questions may be solved, our recommendations are not dependent upon the adoption of any one particular solution.

17. There are, however, two assumptions upon the positive aspects of planning which have to be made, and upon which our recommendations are based.

The first assumption we have made is that national planning is intended to be a reality and a permanent feature of the administration of the internal affairs of this country. We assume that it will be directed to ensuring that the best use is made of land with a view to securing economic efficiency for the community and well-being for the individual, and that it will be recognised that this involves the subordination to the public good of the personal interests and wishes of landowners. Unreserved acceptance of this conception of planning is vital to a successful reconstruction policy, for every aspect of a nation's activity is ultimately dependent on land. The denser the population, the more intensive the use of land becomes in order that the limited area may be capable of furnishing the services required: the more complex the productive organisation of society, the more highly developed must be the control of land utilisation exercised by or on behalf of the community.

* House of Lords Reports, 26th February, 1941, cols. 507-8.

† House of Lords Reports, 11th February, 1942, cols. 752 *et seq.*

‡ House of Lords Daily Report, 21st April, 1942, col. 672.

In our analysis of the difficulties of compensation and betterment we begin with an appreciation of the fact that fundamentally the problem arises from the existing legal position with regard to the use of land, which attempts largely to preserve, in a highly developed economy, the purely individualistic approach to land ownership. That was perhaps inevitable in the early days of industrialisation and limited facilities of communication, but it is no longer completely tenable in our present stage of development and it operates to prevent the proper and effective utilisation of our limited natural resources. Town and country planning is not an end in itself; it is the instrument by which to secure that the best use is made of the available land in the interests of the community as a whole. By nature it cannot be static. It must advance with the condition of society it is designed to serve.

This leads us to the second assumption we have made. While the principle of national planning has, as we have stated, already been accepted by the Government*, much remains to be done to carry it into effect, and the precise shape of the future planning policy and the degree of centralisation are as yet undetermined. We wish to make it clear, however, that the system we regard as necessary for an effective reconstruction, and which we have therefore assumed, is one of national planning with a high degree of initiation and control by the Central Planning Authority, which will have national as well as local considerations in mind, will base its action on organised research into the social and economic aspects of the use and development of land, and will have the backing of national financial resources where necessary for a proper execution of its policy.

It is apparent, therefore, that the Central Planning Authority we have assumed is an organisation which does not yet exist, and that "planning" has a meaning not attached to it in any legislation nor, until recently, in the minds of the public.†

CHAPTER II

THE NATURE OF EXISTING DIFFICULTIES

(1) INTRODUCTION

18. We have indicated in the previous Chapter the planning basis which we feel bound to regard as necessary if the post-war reconstruction is not to be prejudiced. It is from this general point of departure that we now proceed to our analysis of compensation and betterment, and we propose to examine in outline the nature of the difficulties which have to be overcome and the factors to be taken into consideration in seeking a solution.

19. It has become a commonplace to lament the defacement of the countryside. Much of it was perhaps inevitable; houses, factories, roads, etc., to meet the requirements of a growing community must necessarily encroach on the rural areas. The defect lay in the fact that for the most part development was allowed to proceed unplanned, with little or no regard for amenity or national requirements. The statutory powers available were inadequate or the financial or other difficulties of operating them were too acute to enable much effective check to be placed on sporadic development, and over a considerable area of the country no steps were taken to put into operation such powers as did exist.‡ It is true that the number of years which had elapsed, when war broke out, since the passing of the Town Planning Act of 1932, was insufficient to enable

* See para. 16 above.

† In Chapter XI we refer to the constitution of the Central Planning Authority.

‡ See second footnote to para. 14 above.

the full effect of the Act to be appreciated. But for reasons already given we are satisfied that the 1932 Act, like its predecessors, is based upon a principle of planning which is incapable of meeting present requirements.

So far as the past is concerned it may be possible in time to correct, for the benefit of future generations, some of the misfortunes which have befallen the countryside. Trees can be re-planted; open spaces can in some degree be restored; even the spoliation of beauty spots is not entirely beyond human remedy. But measures such as these will necessarily be slow in operation. The problem presented by areas which in recent years have been badly developed or in which building operations would not have been permitted under adequate planning control is the same as that presented by the older built-up areas.

20. Two distinct problems therefore emerge. As regards rural land it is necessary to prevent in the future a repetition and continuation of the errors of the past. As regards urban areas and other land already developed the removal of unsatisfactory or obsolete buildings, the stopping of non-conforming uses and the provision of more suitable lay-outs where necessary are the main requirements, coupled with adequate control of any redevelopment which may take place on demolition or destruction of existing buildings.

We propose to deal with these two categories of land separately because an analysis of their respective difficulties and requirements reveals many points of difference. The method of treatment best suited to one branch of the problem is not necessarily the best method for the other branch, and at a later stage we deal with this question. For convenience we refer in this Chapter of our Report to built-on land as developed land and to land not built-on as undeveloped land. Agriculture is a highly important form of land development, but the terms as we have defined them are now in common use and their meaning is well understood.

(2) UNDEVELOPED LAND

21. One of the main objectives of any efficient system of national planning will be to secure the utilisation to the best national advantage of the undeveloped land in the country. A balanced allocation to the various necessary or desirable uses can only be made in the light of organised research into national requirements, for the claims on the use of such land are many and competing. They include, for example :—

- (i) Reservation for agriculture.
- (ii) Preservation of open spaces on the fringes of towns, playing fields, coastal areas, national parks, areas of scenic beauty, etc.
- (iii) Requirements of transport—roads, railways, aerodromes.
- (iv) Requirements of defence.
- (v) New building development—factories, shops, houses, social centres, including perhaps completely new centres of living if the principles of satellite towns and garden cities are adopted. For these purposes ancillary services are required, such as sewage disposal works, reservoirs, generating stations, schools, hospitals, civic buildings.

22. It is clear that under a system of well-conceived planning the resolution of competing claims and the allocation of land for the various requirements must proceed on the basis of selecting the most suitable land for the particular purpose, irrespective of the existing values which may attach to individual parcels of land. A coastal area, a beauty spot, the fringe land round existing towns, may all have a high building value for residential or industrial development, yet it may be in the national interest to forbid building whether for reasons of amenity or because the soil is highly fertile and suited for agriculture. Similarly it may be in the national interest to prevent some of our existing large

cities from expanding further. This will involve sterilisation from building of much land which, if unrestricted, would continue to command a high price for development.

Action such as this is practically impossible under the existing planning legislation on account of the liability placed on the local planning authority for compensating all the landowners concerned for deprivation of development value. In this connection two well-recognised facts must be borne in mind. The first is that potential development value created by the expectation of future development is spread over many more acres than are actually required for development in the near future or are ever likely to be developed. The second is that wisely imposed planning control does not diminish the total sum of land values, but merely redistributes them, by increasing the value of some land and decreasing the value of other land. These principles of "floating value" and "shifting value" respectively are of prime importance in connection with the amount of compensation payable, both in respect of the imposition of restrictions on the use of land and also in respect of its acquisition, for the result is not only that compensation has, in the aggregate, to be paid far in excess of the real loss but that payment has to be made for land values that are not really destroyed at all.

Floating Value

23. Potential development value is by nature speculative. The hoped-for building may take place on the particular piece of land in question, or it may take place elsewhere; it may come within five years, or it may be twenty-five years or more before the turn of the particular piece of land to be built upon arrives. The present value at any time of the potential value of a piece of land is obtained by estimating whether and when development is likely to take place, including an estimate of the risk that other competing land may secure prior turn. If we assume a town gradually spreading outwards, where the fringe land on the north, south, east and west is all equally available for development, each of the owners of such fringe land to the north, south, east and west will claim equally that the next development will "settle" on his land. Yet the average annual rate of development demand of past years may show that the *quantum* of demand is only enough to absorb the area of one side within such a period of the future as commands a present value.

24. Potential value is necessarily a "floating value," and it is impossible to predict with certainty where the "float" will settle as sites are actually required for purposes of development. When a piece of undeveloped land is compulsorily acquired, or development upon it is prohibited, the owner receives compensation for the loss of the value of a probability of the floating demand settling upon his piece of land. The probability is not capable of arithmetical quantification. In practice where this process is repeated indefinitely over a large area the sum of the probabilities as estimated greatly exceeds the actual possibilities, because the "float," limited as it is to actually occurring demands, can only settle on a proportion of the whole area. There is therefore over-valuation. To quote from the evidence submitted to us by one of the professional bodies in connection with the "development rights scheme" recommended in Chapter IV:—

"One of the reasons for this over-valuation is that when any single piece of land is being considered, the prospect that building development may come its way and none other must be taken into account. This 'floating value,' as it has been called, may attach to many pieces of undeveloped land on the outskirts of a town when they are considered as separate units. When considered together or 'globally' each and every unit cannot in fact secure this 'floating value' to itself, because that would

' assume that the demand for building land would settle upon all the units simultaneously. Such demand, however, is in fact neither 'global' nor simultaneous; it settles upon different pieces of land at different dates. Hence the 'global' method of valuation cannot assume, at the date on which the valuation is made, the possibility that demand will settle upon all the units at that date. Therefore the 'global' valuation must be less than the aggregate of the individual valuations when considered separately."

To quote further from the same source :—

" It is obvious that no purchaser of the whole of the development rights in any complete region would pay more than the intrinsic value of such rights; and such value would be exceeded if the total possible demand were artificially increased so as to include the possibility that the 'floating value' might settle at more points, or to a greater degree, than in fact it can."

25. Unquestionably the greatest obstacle to really effective planning has been the fear on the part of planning authorities of incurring indefinite liabilities in the matter of compensation if the extreme step of forbidding development is taken, and the almost unanimous opinion expressed in the evidence submitted to us is that the factor of "floating value" plays a large part in the unwillingness of authorities to incur claims for compensation. In this connection we may usefully quote the following passage in a Report* on the Preservation of the Countryside made by the Minister of Health's Town and Country Planning Advisory Committee :—

" If all building except agricultural is permanently prohibited over wide areas, compensation must be paid for the loss of potential building value over these areas. It may be that on any reasonable estimate that can be formed not more than 100 houses are likely to be built in a 100,000-acre rural zone in the lifetime of the scheme, so that over the whole zone the loss of 'potential building value' on prohibition of any building would be only 100 houses. But potential building value is necessarily a 'floating value' and it is practically impossible to predict where it will settle. Hence, if the 100,000 acres are held in many ownerships, and claims by individual owners for loss of potential building value come to be separately adjudicated (as under the present system they must be), the total resulting bill for compensation is likely to be enormous, and greatly to exceed in the aggregate the amount of the real loss."

The factor of "floating value" affects the compensation payable both on the public acquisition of undeveloped land, and on the imposition of restrictions on the use of land.

Shifting Value

26. The public control of the use of land, whether it is operated by means of the existing planning legislation or by other means, necessarily has the effect of shifting land values: in other words, it increases the value of some land and decreases the value of other land, but it does not destroy land values. Neither the total demand for development nor its average annual rate is materially affected, if at all, by planning ordinances. If, for instance, part of the land on the fringe of a town is taken out of the market for building purposes by the prohibition of development upon it, the potential building value is merely shifted to other land and aggregate values are not substantially affected, if at all. Nevertheless, the loss to the owner of the land prohibited from development is obvious, and he will claim compensation for the full potential

* Report dated July, 1936, para. 42.

development value of his land on the footing that, but for the action of the public authority in deciding that development should not be permitted upon it, it would in fact have been used for development. The value which formerly attached to his land is transferred and becomes attached to other land whose owners enjoy a corresponding gain by reason of the increased chance that their land will be required for development at an earlier date.

A similar shift of value takes place if part of the land is taken out of the market for building purposes by being purchased for a public open space or other public purpose.

27. In theory, in view of these considerations, it should be possible to compensate all owners whose land is decreased in value by restrictions on development out of a "betterment" fund levied from owners the value of whose land is thereby increased. No scheme has, however, yet been devised under which in actual practice compensation and betterment can be equated in this way.* In ascertaining the betterment there immediately arises the difficulty of establishing the amount by which a particular parcel of land has increased in value as the direct consequence of the restriction imposed on the other land and not from other causes. The shift of value resulting from the restriction may be to land which already possessed some building value; it may be to land hitherto of purely agricultural value; it may in part attach to land already built on; it may be to land nearby or to land far away. And, in any event, the increase is only an expectation value which may not materialise for years and in some cases will not materialise at all. Other influences may operate later and effect further shifts of values; and by the time a given site is finally developed and the owner reaps the increased value, innumerable factors may have intervened.

With planning placed on a national basis, the shifting of land values may well take place on a much larger scale than in the past; for example, if industries were removed from their present location. It is obvious, however, that, if all the land of the country were in the ownership of a single person or body, the mere shifting of values from one piece of land to another would not call for any financial adjustments and the need for paying compensation or securing betterment would disappear.

Summary

28. These, in outline, are the factors which, as regards undeveloped land in particular, constitute the key to the difficulties of compensation and betterment which have hampered planning. If land with potential development value is purchased by a public authority or is restricted against development or certain forms of development, compensation has to be paid for individual loss of land values which have not in fact been destroyed but which have only shifted to other land. In addition, where the land belongs to a number of owners, the aggregate of values claimable by individual owners when separately assessed, owing to the factor of "floating value," greatly exceeds the real loss of the claimants taken as a group. On the other hand betterment cannot be collected to any substantial degree in respect of the shifted values because it is impossible to say with certainty whether, and to what extent, a given land value is attributable to a given cause.

* This ideal is certainly not achieved by the betterment provisions of the Town and Country Planning Act, 1932. Section 21, which is reproduced for convenience in Appendix III, provides for a levy by the planning authority of 75 per cent. of the increase in value of any property due to the coming into operation of any provision in a planning scheme, or by the execution of works under a scheme; but, broadly speaking, betterment is only recoverable on realisation, and even so within a maximum period of 14 years, whereas compensation is claimable immediately the scheme comes into operation. The subject of betterment is considered in detail in Chapter IX.

(3) DEVELOPED LAND

29. We have already given in paragraph 11 some indication of the nature and magnitude of the problems which arise in connection with the developed areas. Most of our towns and cities are the result of haphazard growth, unplanned and uncontrolled, and their inadequacy to twentieth century needs has long been apparent and is likely to become more acute. The fact that half the population of Great Britain lives in towns and cities of over 50,000 inhabitants* indicates that the necessity of ensuring that our built-up areas are healthy and efficient centres of living is one of the most important tasks with which the post-war world will be faced. The following are some of the main requirements which have to be borne in mind in framing a system upon which the replanning of cities can operate successfully:—

(1) Widening of existing roads, re-arrangement of streets, elimination of bottlenecks and building such new roads, bridges, etc., as may be necessary to provide free movement of traffic or to allow more light and air to buildings.

(2) Provision of open spaces in areas at present inadequately served. The Barlow Commission, after quoting figures for various cities, drew attention to

“the fact that, generally speaking, large towns at present lack reasonably adequate open space and playing fields. The present-day demand for physical fitness calls for the rectification of this deficiency, which is generally most acute in the central areas of the towns, and points to the desirability of local authorities giving consideration, when undertaking redevelopment, to the retention of part of the areas as an open space available for games”†.

(3) Rebuilding of bombed areas, slum areas, areas of obsolete buildings, and overcrowded areas, to a suitable plan which may need to reduce density, change the use of land as, for example, from industrial use to housing, retail trade to offices, or make other variations, such as remodelling the lay-out of railway communications and stations or canals.

(4) Re-housing, in other areas, of population displaced from a rebuilt district by reason of reduction in density. In this connection the necessity of providing housing close to places of work must not be overlooked.

(5) Provision of amenities and cultural facilities—libraries, schools, social centres, hospitals, cinemas, theatres, etc.

(6) Provision of industrial necessities—docks, offices, factory sites, etc.

30. The requirements and difficulties of replanning the developed areas thus differ considerably from those applicable to undeveloped land and the interference with existing users and existing buildings is necessarily on a much larger scale. As in the case of undeveloped land, however, it is apparent that if the improvement or rebuilding of cities is to be carried out on the basis of a scientifically prepared plan, the planning authority must be in a position to proceed with the single aim of ensuring utilisation of the land to the best national advantage. An examination of the Town Planning maps of some of our most important built-up areas reveals that in many cases they are little more than photographs of existing users and existing lay-outs, which, to avoid the necessity

* The Reports of the 1931 census show that there were then 113 towns and cities in England and Wales, and seven in Scotland, of over 50,000 inhabitants, with an aggregate population of 22,341,952 out of the total population of Great Britain of 44,790,485. Four-fifths of the population of England and Wales lived in areas officially classified as urban and the remaining one-fifth in rural areas. In Scotland the corresponding proportions appear to be about 70 per cent. and 30 per cent.

† Cmd. 6153, para. 153.

of paying compensation, become perpetuated by incorporation in a statutory scheme irrespective of their suitability or desirability; for even if the scheme provides for certain alterations of existing users and declares certain buildings to be out of conformity with the scheme, the present legislation preserves the right of the owner to rebuild within two years of demolition or destruction and to continue the previous user unless he is compensated for any loss or limitation of his rights.

31. At present a proper allocation of land for the various uses required may involve either restriction of an owner's rights of user or public acquisition of his entire interest. As we have shown in paragraph 26, the effect of such an action is not to decrease the total demand for land. It will increase the competition for the available land within the area and will usually result in expansion on the perimeter or diversion of demand to other areas. Nevertheless, the compensation or purchase price payable for the land of each individual owner has to be determined by reference to its most profitable potential use. Moreover the price of land in the big towns and cities runs into very high figures. The effect is usually to make it impossible for the local authority concerned to carry out desirable improvements or impose any effective control of user with the limited resources at their command.

The hindrance to planning by reason of this compensation problem in developed areas was continually in the minds of the members of the Barlow Commission as the following quotations from their Report show:—

(i) "In the very large towns the cost of the central sites is so high as to prohibit their use for the erection of working-class houses otherwise than in blocks of flats. Even when the land is used intensively in that way, the cost of the building must be heavily subsidised from public funds if the rents are to be brought within the means of the persons for whom the new accommodation is required."*

(ii) "The construction of the nuclei of the larger industrial towns in Great Britain generally proceeded without regard to the preservation of amenity or recreation, in which they are usually sadly deficient as judged by modern standards. . . . With the continued expansion of the urbanised areas, site values have soared to such a height as unfortunately to prohibit appreciable progress being made to rectify the deficiency in the central areas."†

(iii) "The immense size of Greater London and the continued rapid growth both of Greater London and of surrounding urban areas over a wide radius constitute a special problem from the social point of view. The general difficulties and also the compensating advantages of concentration tend to appear emphasised to a high degree in the case of the Metropolis. It still contains a large number of unfit houses despite the extensive schemes of clearance and rehousing which have already been carried out since the war. It is burdened with some of the worst overcrowding in the country, its nearest competitor in this respect being parts of the County of Durham. The pressure of traffic upon its streets has long been a major problem. Land values in the centre attain heights unapproached in the great provincial cities, and consequently render public improvements all the more expensive."‡

(iv) "Large scale concentration has the effect also of forcing up land values within and around an urbanised area, and particularly in its central

* Cmd. 6153, para. 144.

† *Ibid.*, para. 153.

‡ *Ibid.*, para. 168.

- nucleus. This places a greater financial burden than would otherwise be necessary on industry and on local authorities, and through them on the community as a whole. Higher land values are a common feature of urban growth, but the values actually reached vary between towns of different sizes, the general tendency being that the larger the town the higher are the land values. In order to off-set the handicap of high land values in the large towns more intensive use tends to be made of the land by the erection of higher and, therefore, more expensive buildings. The result is that considerable sums have to be found from public funds for the payment of compensation in respect both of site values and buildings when public improvements or attempts to remedy the mistakes of the past are made, and it is precisely in the large towns, where the values of land and buildings are highest, that measures of improvement or re-development are most needed. In his Greater London Highway Development Survey (1937) Sir Charles Bressey said that in densely congested areas like the heart of the City of London the cost of comparatively insignificant street widenings sometimes works out at a rate exceeding £2,000,000 a mile, and even this leads to no conclusive result, as is shown by the recurrence of widenings in the same streets by successive generations.”*

(v) “The transport difficulties arising from London’s growth are not confined to the transport of passengers on the railways. The traffic problem of the streets is not less acute. Drastic treatment alone will bring relief but can be secured only at enormous cost; it has been estimated that the cost of the road schemes envisaged in Sir Charles Bressey’s Report of 1937 on Greater London Highway Development would amount to between £160,000,000 and £230,000,000.”†

In addition to having to compensate on the basis of the value attaching to the land, acquisition in developed areas involves payment for the value of existing buildings which need to be demolished, and compensation to a trader for his removal expenses and for disturbance to his business. All these items have to be purchased before the land can be used for the purpose required in the interests of good planning.

(4) PRINCIPLES OF COMPENSATION

32. Before proceeding further, it is necessary to consider the general principles underlying payment of compensation for State interference with the use of private property.

Ownership of land involves duties to the community as well as rights in the individual owner. It may involve complete surrender of the land to the State or it may involve submission to a limitation of rights of user of the land without surrender of ownership or possession being required. There is a difference in principle between these two types of public interference with the rights of private ownership. Where property is taken over, the intention is to use those rights, and the common law of England does not recognise any right of requisitioning property by the State without liability to pay compensation to the individual for the loss of his property. The basis of compensation rests with the State to prescribe. In the second type of case, where the regulatory power of the State limits the use which an owner may make of his property, but does not deprive him of ownership, whatever rights he may lose are not taken over by the State; they are destroyed on the grounds that their existence is contrary to the national interest. In such circumstances no claim for compensation

* Cmd. 6153, para. 193.

† *Ibid.*, para. 360.

lies at common law.* Cases exist where this common law principle is modified by statute and provision is made for payment of compensation. The justification is usually that without such modification real hardship would be suffered by the individual whose rights are affected by the restrictions, but there is no right to compensation unless that right is either expressly or impliedly conferred by statute.

33. For the last hundred years owners of property have been compelled to an increasing extent, without compensation, to comply with certain requirements regarding their property such, for example, as maintaining or improving its sanitary equipment, observing certain standards of construction, providing adequate air space around buildings and streets of sufficient width. The underlying reason for such provisions is, obviously, that compliance with certain requirements is essential to the interests of the community† and that accordingly the private owner should be compelled to comply with them even at cost to himself. All the restrictions, whether carrying a right to compensation or not, are imposed in the public interest, and the essence of the compensation problem as regards the imposition of restrictions appears to be this—at what point does the public interest become such that a private individual ought to be called on to comply, at his own cost, with a restriction or requirement designed to secure that public interest? The history of the imposition of obligations without compensation has been to push that point, progressively further on and to add to the list of requirements considered to be essential to the well-being of the community. It is unnecessary to trace this progress in detail; it may, however, be remarked that the view of the Legislature on these essential requirements for the well-being of the community has passed beyond the field of health and safety to that of convenience and amenity, as witness bye-laws in regard to advertisements and petrol filling stations.

34. Existing planning legislation takes the form of specifying particular matters for which compensation can be excluded. The Housing, Town Planning, etc., Act, 1909, gave a general right to owners to claim compensation where their property was injuriously affected by the making of a town planning scheme, but extended fairly substantially the range of requirements which could be imposed without compensation, particularly in relation to amenity. It provided for the exclusion of compensation, not only in respect of provisions in a scheme which would have been enforceable if contained in bye-laws made by the local authority but also in respect of provisions which, with a view to securing amenity, prescribed the space about buildings, or limited the number of buildings to be erected, or prescribed the height or character of buildings. The Town and Country Planning Act, 1932, made no fundamental change in the general basis of the compensation provisions but added to the requirements and restrictions in respect of which compensation might be excluded.‡

* These general principles, to which American jurists apply the term "Eminent Domain" and "Police Power" respectively, have been the subject of judicial comment on numerous occasions, and in another connection were stated in a dictum of Wright, J. (now Lord Wright) in *France Fenwick & Co. v. The King*, [1927] 1 K.B. 458, in the following terms:—"I shall assume that the Crown has no right at common law to take a subject's property for reasons of State without paying compensation. I think, however, that the rule can only apply (if it does apply) to a case where property is actually taken possession of, or used by, the Government, or when, by the order of a competent authority, it is placed at the disposal of the Government. A mere negative prohibition, though it involves interference with an owner's enjoyment of property, does not, I think, merely because it is obeyed, carry with it at common law any right to compensation. A subject cannot at common law claim compensation merely because he obeys a lawful order of the State."

† This principle is expressed in the legal maxims *Salus populi est suprema lex* and *Sic utere tuo ut alienum non laedas*.

‡ See Section 19 of the 1932 Act which is reproduced for convenience in Appendix III. The compensation provisions of the 1932 Act, including certain conditions and limitations on the power to exclude compensation, are considered in Chapter VIII.

•It may be observed that under the 1932 Act the provisions in a planning scheme in respect of which compensation cannot be excluded are no less in the public interest than the specified provisions in respect of which it may be excluded, and the line drawn between the two classes of provisions rests on no clear principle. The Minister may, for example, exclude compensation in respect of a provision limiting the density of buildings on a particular area, but not in respect of one forbidding building altogether. Further, there is no intermediate stage between provisions in a scheme which carry a right to full compensation and those which carry no right at all. Under a system such as the present, in which planning is a local affair negotiated to a great extent between the local authority and the property owners concerned, this jurisdiction of the Minister to exclude compensation has been exercised with a limited measure of success, though we understand that the Department, in its legitimate anxiety to prevent buildings being scattered indiscriminately over the countryside, has gone to extreme lengths in accepting provisions which, under the guise of "density" clauses, in effect forbid development over considerable areas of land. On the basis of the premise on which planning must now proceed, we are satisfied that a procedure under which the Minister, having no power to fix the basis for compensation in cases in which compensation is payable, has power to exclude it altogether in certain classes of case which Parliament has found and will find it impracticable to define with any precision, would prove hopelessly unsatisfactory.

35. The difference in treatment as regards compensation may be rested on the difference between expropriation of property on the one hand and restriction on user while leaving ownership and possession undisturbed on the other. If the question be asked "Does ownership of land necessarily carry with it the right to turn it to any use which happens to be most profitable to the owner?", a negative answer must clearly be given. As we have seen, some restrictions may clearly be imposed—and would be accepted unquestionably by any landowner—without any suggestion of hardship or of giving rise to any just claim for compensation. They are both reasonable and necessary in order that other persons should not be injured in the legitimate enjoyment of their own rights. The principle is at its lowest that of "live and let live" and advances so as to comprehend all the obligations which according to the social standards of the day are regarded as due to neighbours and fellow citizens. But, as the scope of these restrictions increases by the operation of planning, a stage is reached at which the restrictions imposed will be said to go beyond the claims of "good neighbourliness" and general considerations of regional or national policy require so great a restriction on the landowner's use of his land as to amount to a taking away from him of a proprietary interest in the land. When this point has been reached, the landowner will claim to be fairly entitled to compensation, such compensation to be computed upon the principles applicable where other rights of property are taken away from him.

Thus we may state five propositions :—

- (1) Ownership of land does not carry with it an unqualified right of user.
- (2) Therefore restrictions based on the duties of neighbourliness may be imposed without involving the conception that the landowner is being deprived of any property or interest.
- (3) Therefore such restrictions can be imposed without liability to pay compensation.
- (4) But the point may be reached when the restrictions imposed extend beyond the obligations of neighbourliness.

(5) At this stage the restrictions become equivalent to an expropriation of a proprietary right or interest and therefore (it will be claimed) should carry a right to compensation as such.

It will always be a matter of difficulty to draw the line with any satisfactory logic, *i.e.*, to determine the point at which the accepted obligations of neighbourliness or citizenship are exceeded and an expropriation is suffered—particularly as the standard of obligation will vary with the political theory of the day. Moreover, public requirements may go beyond a negative restriction and demand, in the national interest, positive user of a particular character. The assumption by the State, once and for all, of all rights over development and redevelopment would be one solution of the difficulties.

36. The question is whether any kind of restriction at all imposed in the public interest on the use of land by private owners should carry a right to compensation. The mere regulation of the use of land in the interests of the community would not, if the common law were followed out, involve any such payment, and an owner could therefore, consistently with the common law, be required to refrain from using his land for purposes specified by the State. Obedience to such a direction would not entitle him to compensation. To some, indeed, it would appear that the acceptance of this common law rule is inevitable if no other satisfactory solution to the difficulties can be found. But it must, we think, be recognised that the full application of such a policy would result in hardship in many cases and, moreover, would involve inconsistent treatment as between individuals. The owner whose land was zoned for agriculture might suffer a loss of potential building value for which he had paid when purchasing the land; the owner whose land was earmarked for factory development would be able to secure a high price and retain the proceeds for his own use, unless special taxation measures were brought into operation.

The extent to which the common law principle ought to be modified by statute in favour of the subject is a matter of policy upon which the decision rests with Parliament. In framing our proposals, however, we have assumed that Parliament will take the view that compensation should be paid at any rate in respect of comprehensive limitations upon the rights of private ownership and we have suggested in paragraph 35 the basis on which, in our view, a right to compensation could properly be rested.

(5) GENERAL CONCLUSIONS

37. The outline we have given above indicates the main features of the problem presented by our terms of reference. It shows that the compensation difficulty exists because planning, which is directed to securing the best social use of land, tries to operate within a system of land ownership under which there is attached to land a development value depending on the prospects of its profitable use. If there is to be a completely satisfactory basis for planning which gets rid of the difficulty, that system itself must be revised, for difficulties which arise out of a system are not solved by framing a new code for assessing compensation and collecting betterment which operates within that system.

38. On the problem of compensation and betterment, the main conclusions we have drawn in the course of our analysis may now be summarised as follows:—

(a) The present statutory provisions, which have not proved satisfactory in the sphere of local planning, would be altogether inadequate for application to the circumstances created by planning conceived as a national operation. If measures of post-war reconstruction are not to be prejudiced a method must be found for removing the difficulties and providing an efficient basis for the future.

- (b) The existence of the compensation-betterment problem can be traced to two root causes :—

- (i) The fact that land in private ownership is a marketable commodity with varying values according to location and the purposes for which it is capable of use.

- (ii) The fact that land is held by a large number of owners whose individual interests lie in putting their own particular piece of land to the most profitable use for which they can find a market, whereas the need of the State and of the community is to ensure the best use of all land of the country irrespective of financial return. If planning is a necessity and an advantage to the community, as is undoubtedly the case, a means must be found for removing the conflict between private and public interest.

- (c) It is in the sphere of "development value", whether attaching to land already developed by building, as in urban areas, or to land suitable for development in the predictable future, as in the case of fringe land around towns and cities, that the compensation difficulty is acute. Development values as a whole, however, are dependent on the economic factors that determine the *quantum* of development of various types required throughout the country, and as planning does not reduce this *quantum* it does not destroy land values but merely redistributes them over a different area. Planning control may reduce the value of a particular piece of land, but over the country as a whole there is no loss.

- (d) In theory, therefore, compensation and betterment should balance each other. In practice they do not. The present statutory code is limited in operation and is not designed to secure balance, and we are convinced that within the framework of the existing system of land ownership it is not possible to devise any scheme for making the principle of balance effective. It is only if all the land in the country were in the ownership of a single person or body that the necessity for paying compensation and collecting betterment on account of shifts in value due to planning would disappear altogether.

It is evident from these conclusions that an adequate solution to the problem must lie in such a measure of unification of existing rights in land as will enable shifts of value to operate within the same ownership, coupled with a land system that does not contain within it contradictions provoking a conflict between private and public interest and hindering the proper operation of planning machinery. We do not imagine that this theoretical conclusion leaves much room for dispute; any difference of opinion that may arise is more likely to be in regard to the most suitable method of translating theory into practice.

CHAPTER III

UNIFICATION OF LAND OWNERSHIP

(1) APPROACH

39. Our analysis up to this point has led to the conclusion that for a solution to our problem a measure of unification of existing rights in land is necessary in order to overcome the effect of shifting value and to eliminate the conflict between private and public interest. Before proceeding to an examination of the method by which that conclusion can best be carried into effect, it is desirable to state the ideals we have tried to satisfy.

In the first place, our recommendations should provide a permanent solution. The adoption of measures designed to serve only the needs of the immediate post-war period and leaving untouched the fundamental causes of the existing difficulties, would soon lead to a recurrence of the problem, and would only be an obstacle to long-term planning.

Second, our recommendations should not be such as to result in the taking over of property by the State without fair compensation. To some an easy solution to the problem is to be found in the imposition of complete planning control without compensation, or in confiscation by the State of the rights of development or of all land in private ownership, but these, so far from being a solution to the compensation-betterment problem, are only the expression of a particular political theory.

Third, our recommendations must be, so far as possible, capable of immediate adoption and be administratively practicable and must not entail greater financial operations than are likely to be feasible during the war or in the early post-war period.

Lastly, our recommendations should not be such as to interfere unnecessarily with the economic life of the country or with individual enterprise. Planning exists for the planned, not for the planners.

(2) UNIFICATION BY PRIVATE POOLING SCHEMES

40. During the last few years informed opinion has become increasingly alive to the necessity of securing some measure of unification of land ownership, and in some quarters pooling schemes of various types have been advanced* as a suitable method by which the necessary results could be secured without interfering with the private ownership of the land. The essence of a pooling scheme is that the owners of the whole of the land and buildings within a specified area should be formed into a Corporation which would become the sole owner of all the property in the area, the existing owners being compelled to sell their land to the Corporation in exchange for shares representing the value of their interest. The Corporation would be managed on the same lines as a limited liability company; the shareholders would appoint directors, who would manage the land and the buildings on behalf of the Corporation as single estate owner of the area, and would fix rents and decide questions of development or re-development by reference to considerations of the best use of the Corporation's assets.

The pooling system would extend to land ownership and management somewhat the same system of rationalisation and concentration which, in the industrial sphere, has resulted, in the course of the last generation or so, in the complete re-organisation of many industries by the absorption of numerous small scale enterprises. In some cases competition within the industry has been largely eliminated and a virtual monopoly established. Nevertheless, it is said that efficiency has been increased, research has been facilitated, improved processes for large scale production have been made possible, and the result is claimed to have been of benefit to both shareholders and consumers alike.

The advocates of pooling systems claim that similar advantages would accrue from the adoption of their proposals, and that the competitive element would be preserved by the competition between different pools which would vie with each other to attract the most profitable development.

The valuation of existing properties, for the purpose of determining the amount of each owner's share in the pool, would need to be made by a single

* Notably by Sir Gwilym Gibbon in his evidence to the Barlow Commission (*see* para. 268 of their Report, Cmd. 6153) and in his book "Problems of Town and Country Planning."

valuer in order to secure uniformity. Opinions on questions of value frequently differ within wide limits, but provided all interests are valued by the same person and by reference to the same standards it is said that the relative positions of the shareholders would not be upset. On this point we mention here, in passing, that each pool would be likely to include much undeveloped land to which an element of "floating value" attaches, and unless provision were made to eliminate it, and also to ensure that the total of the individual values was fairly representative of the value of the pooled properly taken as a single unit, the result might be heavy over-capitalisation. If the dividends of the pool were restricted by Statute, as has been suggested, the tendency would be to place capital values as high as possible, particularly if the valuations were made by the pool itself, without any Government or other public supervision. This, however, is but a minor criticism of the scheme which might be overcome.

41. No one doubts that the multiplicity of ownerships in particular areas is often, apart from planning considerations, an obstacle to the proper utilisation and development of those areas and it is clear that the obstacle would be removed by pooling schemes. But pooling schemes are not the only method by which that obstacle can be removed. Purchase by a planning authority followed by a disposition of the land after roads, open spaces, etc., have been provided for and the scheme of planning decided upon seems simpler and more efficient. However that may be, pooling schemes of this limited character do nothing to solve the compensation-betterment difficulty and need not for present purposes be further considered. One may therefore dismiss pooling schemes which have only this limited object. The pooling schemes that require consideration are those which contemplate the ownership by pooling corporations of very considerable tracts with a view to facilitating proper planning and solving in part the compensation-betterment problem.

42. In our view there are many and grave objections to these schemes. They are essentially financial ventures. Voluntary association in a financial venture is one thing; compulsory association is quite another. Landowners could justifiably object to such compulsory association. There would soon be a divorce between the persons interested in the occupation of the land held by any particular corporation and the persons interested in the shares of the corporation, and there would therefore arise a conflict of interest between the shareholders on the one hand and the occupiers of the corporation's land on the other hand. The corporation would, unless subject to effective overriding control, direct its attention to furthering the financial interests of the corporation. A statutory limitation on dividends—if it secured anything—would have one or more of these results: that rents charged were not determined by economic conditions, leading in practice to unjustifiable diversity of treatment of tenants, that the pool was over-capitalised, or that a fund was created in the hands of the corporations which was not applicable to any specific purpose. Such a limitation of profits would not secure good planning. Lastly, if pooling corporations assume the large proportions contemplated by some of their advocates, there would be created a commercial monopoly in each corporation over a wide area of land with all that such a monopoly involves.

43. So far as planning and the existing difficulties of compensation and betterment are concerned, the question of the relation between the pool authorities and the planning authorities immediately arises. The functions of both would be to decide the use of particular areas of land, and their operations would need to be so closely co-ordinated that the pool would either have to take over planning functions, or become a part of the planning machinery. Yet by reason of the inherent conflict between the objects of planning and the interests of the pool, neither alternative is possible. One may further

observe that questions would arise between different pools as regards such services as roads and open spaces, and that diffusion of control and administration, and not unification, is inherent in the setting up of different pools. The conflict between public and private interests remains.

44. Assuming, however, that a system could be devised by which the activities of the pool could be suitably controlled or reconciled with planning considerations, the difficulty still remains that the shifts of value resulting from planning restrictions or directions might extend beyond the boundaries of the pool, and questions of compensation and betterment would still have to be faced. Limitations of density, the zoning of land for agriculture, the preservation of areas as national parks or public open spaces, may well shift values from one pool area to another pool area.

In considering this question the area of the pool is therefore the important factor. In general it is recognised by those advocates of pooling who have appreciated the real nature of the problem that, if pooling is to contribute in any measure to a practical solution of existing difficulties of compensation and betterment in relation to planning, the area of the pool must be sufficiently large to embrace what has been described as the "economic unit for each locality". It is implied that this would enable the shift of values resulting from proper planning to be kept within the unit so that compensation would not need to be claimed nor would there be any case for collecting betterment. Theoretically this would be the case provided only that the "economic unit for each locality" is capable of determination and so capable at the date of the formation of the pool, and that the boundaries so devised are co-terminous with the land likely to be bettered by planning operations within the area. But so soon as one attempts to delineate an area for this purpose it becomes apparent that, by reason of the inter-relation of the many spheres of social and industrial activity and the uncertainties of the future, no boundaries can be so defined. Neither economic influences nor shifts of value resulting from planning restrictions are local in operation. The only economic unit that would effectively balance the elements of loss or gain in land values arising from planning control, and would be unaffected by future changes of circumstances and policy, is necessarily the whole country; and particularly will this be so under a system of national planning for which, as the Barlow Report has shown, it may be found necessary to plan in such a way as to direct or induce industry and population to transfer from one centre to another.

45. The logical answer to the proposals for pooling ownerships is thus that they are theoretically sound in endeavouring by means of unification to eliminate the compensation requirements arising from shifts of value, but that as shifts are on a national scale so the pooling of ownership must result in a single pool comprising the whole of the land of the country. In a word, the only feasible system of pooling is nationalisation, which is the very result pooling is designed to avoid.

(3) UNIFICATION BY PUBLIC OWNERSHIP

46. Land nationalisation as a matter of general policy clearly lies outside our terms of reference, and we do not propose even to refer to the many matters having no relation to planning or its machinery which would need to be taken into consideration in connection with its adoption. Within the field of planning itself nationalisation may require to be considered in relation to particular aspects of policy. There are some, for instance, who advocate State ownership of farm land as the right basis for a proper organisation of agricultural production. There are others familiar with the practical side of planning who take the

view that the policy of urban development they envisage as proper can only be effectively carried out if there be State or municipal ownership of urban land. Some who reject land nationalisation as not required to cope with the compensation-betterment problem may find themselves forced to it by a positive planning policy. But just as we are not concerned with nationalising land as a general policy, so we are not concerned with the ideals of particular planners.

We make these observations so as to emphasise that in considering and forming an opinion upon land nationalisation we have kept to our terms of reference.

47. Our criticism of the large scale pooling schemes leads to the result that the solution of the compensation-betterment difficulty can only lie in a degree of unification of existing rights in land carried out on a national scale and involving their national ownership. If we were to regard the problem provided by our terms of reference as an academic exercise without regard to administrative or other consequences, immediate transfer to public ownership of all land would present the logical solution; but we have no doubt that land nationalisation is not practicable as an immediate measure and we reject it on that ground alone. We state our objections to its immediate practicability shortly. *First.* Land nationalisation is not a policy to be embarked upon lightly, and it would arouse keen political controversy. A change of view upon the topic of land nationalisation calls for more than a rearrangement of prejudices. Delay, to say the least, would result. *Second.* It would involve financial operations which in the immediate post-war period might, as we see the matter, be entirely out of the question. *Third.* Land nationalisation would involve the establishment of a complicated administrative machinery equipped to deal with the whole of the land of the country.

(4) OUTLINE OF RECOMMENDATIONS

48. That conclusion makes it desirable to consider whether there is any method, short of immediate nationalisation, which will effectively solve the compensation-betterment problem of the present system and provide an adequate basis on which the post-war reconstruction will be able to proceed.

The only method which answers this test in regard to undeveloped land is the proposal made to the Barlow Commission* for the acquisition by the State of the development rights in undeveloped land. This scheme, which for convenience we refer to as the "development rights scheme", does in our view provide a solution which is both practicable and equitable. Different considerations apply in the case of developed land and it seems to us that piecemeal transfer of urban land to public ownership, as and when required for planning or other public purposes, would be less cumbersome and less onerous a task than that involved in immediate wholesale nationalisation.

We examine these and other matters in detail in Part II of our Report, but it may be useful at this point to complete our general analysis with a broad outline of the recommendations we make over the whole field.

I. Measures for Land Outside Built-up Areas

49. We recommend the immediate vesting in the State of the rights of development in all land lying outside built-up areas (subject to certain exceptions) on payment of fair compensation, such vesting to be secured by the imposition of a prohibition against development otherwise than with the consent of the State accompanied by the grant of compulsory powers of acquiring the land itself when wanted for public purposes or approved private development.

This measure of unification in the State of the development rights attaching to undeveloped land outside built-up areas is an essential minimum necessary

* Cmd. 6153, paras. 250-256.

to remove the conflict between public and private interest to which we have referred. As regards the area to which it applies, it is a complete solution of the hoary and vexing problem of shifting values. The development value for all time will have been acquired, and paid for. Compensation will no longer be a factor hindering the preparation and execution of proper planning schemes. The scheme will thus facilitate the operation of a positive policy for agriculture, the improvement of road systems and public services, the preservation of beauty spots and coastal areas, the reservation of green belts and National Parks, the control over the expansion of existing towns and cities, the establishment of satellite towns and the planned location of industry in new areas.

Shortly the scheme we recommend involves four points :—

(a) The placing of a general prohibition against development on all undeveloped land outside built-up areas and immediate payment to owners of the land affected of compensation for the loss of development value.

(b) Unfettered determination through planning machinery of the areas in which public or private development is to take place, the amount and type of development being determined as regards development for public purposes by national needs and, as regards private development, by private demand.

(c) Purchase by the State of the land itself if and when required for approved development whether for public purposes or for private purposes.

(d) In the case of approved development for private purposes the leasing of such land by the State to the person or body undertaking the development.

A scheme on these lines has been much canvassed and has been commonly described as a purchase by the State of the development rights. That is not, in truth, the transaction : it is the result of the transaction. For, when the land itself is purchased for development purposes, the price then payable excludes the development value. It is, indeed, valuable to describe the scheme as a purchase of the development rights as emphasising that the object of the scheme is to secure development, not to prevent development, and for purposes of statement it is a convenient phrase which we use. The control of development passes from the individual to the State. Just as a prohibition against dishonesty finds its real meaning as an inspiration to honesty, so a prohibition against uncontrolled development should inspire ordered development.

It is apparent, therefore, that the scheme involves neither dual ownership of the land nor divided control. Until the land itself is wanted for purposes of development the owner remains in possession and control save only that he may not develop.

Although the administrative requirements are considerable in the early stages they are mainly concerned with the initial tasks of ascertaining the property concerned and distributing the compensation. Once these matters have been carried through the administrative necessities will in the main be confined to the relatively simple and straightforward tasks of effecting legal transfer to the State of the fee simple as and when the progress of development requires and fixing and collecting whatever rents or premiums may be charged to persons granted permission to use the land for development purposes.

The scheme provides a solution to the land difficulties in the area over which it operates and a basis on which National Planning will work. Many other problems inherent in National Planning itself will remain for solution, but they are problems of planning.

This scheme does not involve the registration of title to land.

We deal fully with this scheme in Chapter IV.

II. Measures for Built-up Areas

50. We recommend the conferment upon public authorities of powers of purchase, much wider and simpler in operation than under existing legislation.*

These matters are dealt with in Chapter V.

If it is accepted, as we think it has to be, that fair compensation must be paid to an owner whose existing interest in land is required for planning purposes, it must be recognised that, in so far as the difficulties of the past arose merely from the necessity of paying this compensation, there is no remedy. Values have attached to land on the basis of the existing system of ownership and, short of confiscatory measures, it will always be costly to make land in private ownership available for planning purposes.

From the point of view of planning, the ideal is that the best plans should be prepared, unhampered by financial considerations. As matters stand the cost falls on the local authority and the plans suffer accordingly. It lies outside our terms of reference to consider to what extent the cost of planning should fall upon national funds, but we are satisfied that it is necessary, both from the point of view of avoiding delay in the preparation and execution of schemes, and from the point of view of cost, that planning authorities should have every facility for purchasing whatever land may be required for fulfilling their schemes. Suitable financial arrangements are therefore imperative.

51. Inasmuch as sound planning does not destroy total land values but merely redistributes them, the ultimate cost may be reduced by recoupment elsewhere. The "development rights scheme" will enable the State to secure the benefit of any shift of values to undeveloped land. Purchase of other land for recoupment, which we recommend in Chapter IX†, will enable much of the shift within the area of towns to be collected for the public purse. The main defect in the structure of our scheme is that increased values may still accrue in part to land which for the time being remains to the full in private ownership.

We therefore recommend a scheme for the imposition of a periodic levy on increases in annual site value, with the object of securing such betterment for the community as and when it is realised, enjoyed or realisable.

The method we suggest is, in our view, the only effective way of collecting betterment without hampering individual enterprise in the development of land. The levy will not be payable in respect of land, the development rights in which are to be acquired under the "development rights scheme", so long as such land remains undeveloped. We outline in Chapter IX the history and theory of betterment, and set out there‡ the full details of the scheme we propose should be put into operation.

* With this must be read our recommendation in para. 23 of our Interim Report that the Central Planning Authority should be granted forthwith powers of control over building and all other developments throughout the whole country by reference to national planning considerations and with a view to preventing work being undertaken which might be prejudicial to reconstruction. As will be seen from para. 4 of the present Report the Government have recognised the necessity of some such control and have stated that they think that any further safeguards necessary can be provided by strengthening the provisions of the Planning Acts and they propose to introduce legislation on these lines. See also in this connection Chapter V, para. 136 below. Reference should also be made to the recommendations made in Chapter VIII for alterations in the compensation code of the Town and Country Planning Act, 1932, including, in particular, the imposition of a "life" on non-conforming buildings and uses.

† See para. 283 below.

‡ See paras. 308 *et seq.*

52. These recommendations in paragraphs 49 to 51, taken as a whole, form a unified scheme which we consider will be workable. We make, however, one observation on the interlocking of our proposals. The proposal for the periodic collection of increases in annual site value stands as a means of collecting increases in site value whether or not our scheme for the acquisition of the development rights is adopted; assuming it is adopted, land in which the development rights are acquired will not be affected by the scheme for the collection of increases in site value, unless and until those development rights are exercised. The scheme for the acquisition of development rights solves the compensation-betterment problem as regards the lands to which it applies. The proposal for conferring powers of purchase in built-up areas is designed to facilitate planning and lessen cost in those areas.

We prefer, however, to put forward these recommendations as a whole. On the details embodied in them there may be room for differences of opinion. But we have thought it right to enter into questions of detail with a view to satisfying ourselves that the recommendations are workable.

III. Remaining Recommendations

53. Our other recommendations relate to the provision of a new procedure, and to alterations in the existing procedure, for obtaining and exercising compulsory powers of acquisition, to alterations in the existing rules affecting the ascertainment of compensation on compulsory acquisition and to alterations in the compensation code of the Town and Country Planning Act, 1932, including the imposition of a "life" on non-conforming buildings and uses. These are set out in Chapters VI, VII and VIII. It is necessary to state here that market value at the date of acquisition is the general basis on which compensation is to be assessed. But we recommend that, in assessing compensation on acquisition, there shall be excluded any increased value or element of value arising from the actual or possible demands for land by any Government Department, local or public authority, or any statutory undertaker. This exclusion is, under our recommendations, to apply both in assessing compensation on the compulsory acquisition of land and also in estimating the total sum to be paid under the "development rights scheme". To this exclusion, as appears from a Reservation to this Report*, one of our number objects.

We suggest the continuance of the application of the "March 1939 ceiling" which we recommended in our Interim Report, and of the present rules as to compensation for injurious affection.

54. The following proposal for what is called "the unification of the reversion" has been made to us:—

That all land in Great Britain be forthwith converted into leasehold interests held by the present proprietors as lessees of the State at a peppercorn rent for such a uniform term of years as may reasonably, without payment of compensation, be regarded as equitable, and subject to such conditions enforceable by re-entry as may from time to time be applicable under planning schemes.

We deal with this proposal in Chapter X. The proposal is self-contained and can be adopted or rejected whatever be the fate of our recommendations.

The Committee are not agreed on its adoption.

55. In Chapter XI we make our observations on the constitution of the Central Planning Authority.

* See page 167.

PART II
RECOMMENDATIONS
CHAPTER IV

UNDEVELOPED LAND

(1) INTRODUCTION

56. The analysis in Part I of our Report has shown the main difficulties which arise in the case of land in rural areas and unbuilt-on land on fringes of towns and cities. We refer to our assumption upon the positive aspects of National Planning stated in paragraph 17, to the factors of floating and shifting values examined in paragraphs 23 to 27, to the general conclusions on the main problem of compensation and betterment set out in paragraph 38, and to our reasons given in paragraph 47 for rejecting land nationalisation as an immediately practicable measure. As stated in paragraph 49, we recommend the immediate vesting in the State of the rights of development in all land lying outside built-up areas (subject to certain exceptions) on payment of fair compensation, such vesting to be secured by the imposition of a prohibition against development otherwise than with the consent of the State accompanied by a grant of compulsory powers of acquiring the land itself when wanted for public purposes or approved private development.

The purpose of this Chapter is to explain the effect of the proposed scheme, to examine in outline how it will work and to refer to certain points of detail which we have had occasion to consider in connection with our enquiry. We have taken expert advice on a number of points, but in general the details have not been the subject of outside criticism. The details are not of major importance.

57. We think the scheme satisfies the ideals stated in paragraph 39. We have made certain observations on it in paragraph 49. It is only necessary to add that the question whether compensation should be paid and the further question how the amount of that compensation should be determined are distinct from the question whether the development rights should be acquired.

(2) STATEMENT OF THE SCHEME RECOMMENDED

58. The scheme may be shortly summarised as follows:—

(a) *Acquisition of Rights*

(i) From a date to be fixed (the "vesting date") a prohibition is to be placed on the "development", except under the authority of the Central Planning Authority, of all "undeveloped land" lying outside "town areas", and, as a consequence, on the vesting date the right to develop that land will be treated as having vested in the State.

(ii) The undeveloped land shorn of all rights of development will remain vested in its former owners. The interest so remaining vested in a landed proprietor is referred to as the "owner's interest". Owners will retain

possession and all their powers of ownership, use and disposal except only that "development" is prohibited. Mortgages, charges, etc., which affect the land will continue to affect the "owner's interest".

Note.—(a) As to "town areas" and their delimitation, see paragraphs 69 and 70.

(b) "*Undeveloped land*" includes all land outside "town areas" not brought within the category of "developed land". Land in the ownership of the Crown, local authorities, etc., may need special treatment (see paragraphs 78 and 125 to 126).

(c) *Developed land* is dealt with in paragraphs 71 to 76 and includes (*inter alia*) buildings which with their grounds do not occupy more than one acre (paragraph 72), and land occupied for trade or industrial purposes (see paragraph 75).

(d) "*Development*" for the purposes of the scheme is defined in paragraph 61. Broadly, it includes diversion to uses other than agricultural uses and erection of buildings (other than agricultural buildings or buildings which are to serve the amenity purposes of other buildings). The subject of *Surface Minerals* is specially dealt with (see paragraphs 117 to 120).

(b) *Compensation*

Compensation will be paid on the basis that there is to be fixed a single sum representing the fair value to the State of the development rights taken as a whole. This sum will be divided among the owners in accordance with the development value of their various holdings. A Supplemental Fund to meet exceptional cases is suggested.

Note.—As to the single sum (*the General Compensation Fund*), see paragraphs 79 to 89.

As to the *Supplemental Fund*, see paragraph 90.

As to the principles of valuation, see paragraph 92. As to method of valuation and distribution, see paragraphs 93 to 101.

(c) *Management*

(i) The Central Planning Authority, either directly or through regional or other bodies, will be charged with the management of all matters arising under the scheme.

(ii) Where lands are required either for public purposes or for private development the "owner's interest" will be purchased by the Central Planning Authority under compulsory powers. The development value having been already paid, the price will be ascertained by reference to the value, at the date of acquisition of the "owner's interest". If not agreed, the amount payable will be assessed by arbitration. Compensation for severance or other injurious affection suffered will also be so assessed.

(iii) Where the land is required for private development, it will be leased to the developer for an appropriate term of years suggested by reference to the nature of the development. It will not be sold. Where both an owner and a third party wish to develop, preference will be given to the owner.

Note.—An exception from the procedure laid down in (ii) and (iii) is provided to meet the case of an individual wishing to build a dwelling-house for his own purposes (see paragraph 106).

(a) As to management by the Central Planning Authority, see paragraph 102.

(b) As to compensation on acquisition of land, see paragraph 108

(c) As to severance and other injurious affection, *see* paragraphs 109 to 116.

(d) As to local authorities, *see* paragraphs 125 and 126.

(3) GENERAL EFFECT OF THE SCHEME

59. An understanding of the scheme as a whole will be helped by a statement in broad outline of its effect.

First.—The prohibition against development or the acquisition of the development rights—however it be looked at—will not disturb the title or possession of any person interested in the land. The owner and all other persons interested in the land are put in the position they would occupy if they had entered into an effective bargain that the land would not be used for “development”. By the prohibition, the State acquires no right to use, manage or enter upon the land. It can only interfere with its use to the extent of stopping “development”. Broadly the prohibition is that the land may not be treated as building land or diverted to industrial purposes.

Second.—The maximum amount of freedom of use and enjoyment consistent with the interest of the State in the development rights remains with the owner. He is not restricted to the existing use of the land. The land may be used for any purpose which does not amount to “development”. The owner of a farm, for instance, will remain free to farm in such a manner as he thinks fit and to make any such improvements as are in his view proper for his holding as a farm. The occupier of a house and garden or park which falls within the scheme will remain free to use his property for all the purposes of his residence, and (subject to compliance with any local bye-laws) will remain entitled to put up such additional buildings as are necessary or designed for the improvement or amenities of his house. He will be substantially in the same position as if he had agreed to keep his garden or park as a private open space. The only limitation is that the land may not be “developed” in the technical sense we attribute to the term.

Third.—The owner’s powers of selling, mortgaging, leasing, etc., or otherwise disposing of his property remain undisturbed. But their exercise will affect only the “owner’s interest”.

Fourth.—Any interests affecting the land (leases, mortgages, rentcharges, etc.) will continue to attach to the land shorn of the development rights.

Fifth.—Any compensation paid by reason of the imposition of the prohibition will go to the persons interested in the land according to their rights and interests. Where there is a mortgage, for instance, the compensation will be treated as if it arose from a sale of part of the mortgaged property.

Sixth.—Where “development” in the sense in which we use the word is proposed, the position of the State as the owner of the development rights comes into active operation. The proposal for development may range from the formation of a garden city or a satellite town to the erection of a private factory, and it may emanate from any source. Whether particular land is to be developed and the form that development should take is to be decided by the Central Planning Authority acting through its appropriate machinery.

Seventh.—Whatever form of development is decided upon the Central Planning Authority should acquire the “owner’s interest”, compulsorily if need be. Unless the purchase price is agreed, the fair value of the “owner’s interest” will have to be determined by arbitration in the ordinary way. The property is to be valued as it stands at the date of its acquisition. The development rights will already have been paid for and are not to be paid for again. The value to be assessed will be the value of the property subject to the restriction against “development”. In addition to compensation for the land taken,

there will also have to be paid compensation for severance, disturbance of any other injurious affection suffered in respect of the owner's interest in his remaining land.

Eighth.—Where private development is in question and there is competition between private developers, preference should, other things being equal, be given to the owner of the "owner's interest".

Ninth.—The next step is the disposition of the land in favour of the developer. That, consistently with the scheme, must, where private development is in question, take the form of a lease subject to a rent or to a premium, or to both a rent and a premium, for the period of years required by the nature of the development under consideration and the status of the developer, and containing provisions which secure that the land is developed and used in accordance with the agreed proposals and such other provisions dictated by planning and other relevant considerations as the circumstances require. The lease should contain—what is common form in leases at the present day—a right to re-enter on breach of covenants, subject to any exercise of the powers now possessed by the Courts to relieve against forfeiture on such terms as it thinks just.

There must be covenants obliging use in accordance with the development proposed and a right of re-entry on failure to carry it out. Land should not be wasted, and, unless the development authorised is in fact carried out, the State should have the right to resume possession.

Tenth.—Where a man wishes to build for his own occupation a house on land he owns, an exception to the general rule of procedure may be made. In such case the State would not acquire the "owner's interest" and lease it back to the proprietor but a licence would be granted for the erection of the house subject to appropriate conditions.

Lastly.—The scheme does not require either the State or local authority to engage in industry. The State's function under the scheme is to use the powers it acquires in the interests of National Planning.

60. Having stated and explained the scheme in outline, we now propose to deal with the matters in it under the following main heads:—

- (I) The Restriction on Development.
- (II) The Area and Properties affected by the Scheme.
- (III) Compensation.
- (IV) Management.
- (V) Various Miscellaneous Matters.

(4) DETAILED EXPOSITION

(I) THE RESTRICTION ON DEVELOPMENT

61. The first matter of principle is the meaning to be attached to "development" for the purposes of the scheme. The scheme will be carried out by prohibiting the "development" of undeveloped land outside towns. All else is consequential. The points to be secured by a definition are, *first*, that the way is kept open for the due execution of any planning proposals, and, *second*, that no unnecessary restriction is imposed.

We suggest the following definition of "development":—

"Development" should mean (a) the use of land for the purpose of carrying on any business, trade or industry other than agriculture, or (b) the erection of buildings, except buildings put up for the purposes of agriculture or buildings which are to serve the amenity of dwelling-houses or other buildings.

"Agriculture" will require to be defined. In addition to arable farming it should include forestry and horticulture, the use of land as meadow or pasture land or orchard, osier or woodland, or for market gardens, nursery gardens, allotments, poultry farming, or the rearing of birds and animals or the training of animals.

62. If there be attributed to "development" and "agriculture" some such meanings as we have suggested, the general case will be properly provided for. Some cases will need, however, to be specially dealt with. As will be seen, later, we intend that spaces such as race courses and golf courses (which may be regarded as partially developed) should be treated as undeveloped land to which the scheme applies. Some particular provisions will be needed so as to permit their continued use for those purposes. It is not intended that any existing use of land falling within the ambit of the scheme should be interfered with by the prohibition.

63. Moreover, it should be made clear that the existing use is not stereotyped. The form of use may be changed so long as the use does not amount to development.

64. Definitions are neither easy to frame nor easy to apply. There may therefore arise cases where a landowner entertains doubts whether or not some work he proposes to carry out would or would not be an infringement of the prohibition against development. We think that the landowner should be entitled to obtain from the Central Planning Authority a ruling upon any point upon which he is in doubt, and that works carried out on the basis of that ruling should be regarded as proper. We do not suggest that the landowner should be bound by the ruling. He should, if dissatisfied, be entitled if so advised to have the matter determined by the Courts, not as a matter of appeal from a decision of the Central Planning Authority but as a question arising for decision for the first time. Where the question at issue, in the view of the Central Planning Authority, raises a question of principle, the Central Planning Authority should be authorised to pay the costs properly incurred by the owner in the litigation.

65. Other points of detail will doubtless arise and we think it may be necessary to leave a certain measure of discretion to the Central Planning Authority and to confer on them a power to deal with exceptional cases by way of licence.

Surface minerals require special consideration and are dealt with later (see paragraphs 117 to 120).

66. The imposition of the prohibition is the only immediate effect of the scheme upon the landowner. It is apparent therefore that the imposition of the restriction against development does not involve dual ownership of the land in any real sense.

67. Provision should be made in the legislation that a disposition of land made by a testamentary instrument should include any sums payable in respect of the development rights, unless these sums are specifically dealt with, and that for purposes of death duties these sums should be dealt with as land.

68. The prohibition should be imposed at an early date. The selected date we call the "vesting date". The interest of the owner in the land subject to the prohibition we call the "owner's interest".

(II) THE AREA AND PROPERTY AFFECTED BY THE SCHEME

(a) Town Areas to be excluded from the General Scheme Area

69. The next matter of principle to be decided in connection with any scheme for the acquisition of development rights conceived as a national operation is the general area to which such a scheme should apply. We have come to the conclusion that there should be excluded from its operation all land whatever its condition which lies within the limits of a town in its popular sense, i.e., a place where there is such an amount of continuous occupancy of the ground by buildings that persons may be said to be living in the same town or place continuously, fringe land not being regarded as part of the town. No doubt there will be many vacant sites inside towns, but we can see no reason for including them within the ambit of the scheme. Indeed, all the arguments are against inclusion. Their urban character has already been determined. Their inclusion would involve centralised control where local control should be predominant. The burden of administration would be heavy: the addition to cost enormous. If, within a town, land is required for planning purposes the land should be bought outright. There is indeed no point in buying development rights in undeveloped land within the limits of a town.

(b) Exact Demarcation of the General Scheme Area

70. It is important that the line of demarcation between land within the scheme area and land outside the scheme area should be precise in order that any particular owner may be able readily to ascertain whether or not his land falls within the scheme area. The existing boundaries of particular local authorities would not give the dividing line required for the purposes of the scheme. Exact demarcation cannot be achieved solely by definition and we are of opinion that it will be necessary to show the exact area of a "town," in the sense in which we use the word, by reference to boundary lines drawn on maps.

We suggest that it should be the function of the Central Planning Authority to determine exactly the limits of the "town areas" and to be responsible for the maps, and that for this purpose they should take advantage of the knowledge and services of the appropriate local authorities. The final decision as to the limits of any particular "town area" should lie with the Central Planning Authority, who should be entitled to decide all doubtful points.

There should not in our view be any right of appeal to the Courts from any decision as to the limits of a "town area" arrived at by the Central Planning Authority. Nor should owners of land have any right to be heard upon the question whether their land should be included within or excluded from a "town area," for the question is not one of making a choice whether one particular piece of land rather than another should be taken for public purposes, but whether the development rights in the land should be acquired in the interests of the State. The operation is a national one undertaken for the purpose of controlling all future development in accordance with national planning, and the views of individual owners are irrelevant in determining the extent of the scheme.

The preparation of these maps is the first step in the scheme. It should be undertaken with as much expedition as circumstances admit. When settled, the maps should be readily available for public inspection.

(c) Properties within the General Scheme Area which are to be excluded or which require Special Treatment

71. The next question is what land outside "town areas" should be excluded from the scheme. No land should be excluded because development appears unlikely. But land substantially developed in the accepted sense of that term ought not to be included except for good reason. The matter of exclusion has

to be considered in the light of the objects to be served by the scheme. We propose to deal with the matter on the footing that all land outside "town areas" should be included other than such as is excepted by reason of its falling within one or other of certain specific categories. The question therefore becomes what land outside "town areas" should be treated as developed land.

(i) *Exclusion of Built-on Land where Buildings and Grounds do not exceed One Acre*

72. The first exception we recommend is land *forming part of the site or curtilage of any dwellinghouse or other building, where the area of the site and curtilage does not exceed one acre.*

We may recall that by Section 17 (4) of the Finance (1909-10) Act, 1910, Undeveloped Land Duty was not to be charged on land not exceeding one acre in extent occupied with a dwellinghouse, and exemption was also in certain circumstances given, to the extent of five acres, to gardens or pleasure grounds occupied with a dwellinghouse. We refer to this merely because, as an historical fact, the question what ought to be treated as developed land has already been considered by the Legislature, though it was considered for a widely different purpose. The exception we propose is not confined, however, to land developed by the erection of a dwellinghouse, but relates to land developed by reason of the erection thereon of a substantial building of any kind.

It is clear therefore that there should be an exemption as regards small pieces of land which have already been developed by the erection of a building. Interference with such lands in the interests of planning is unlikely and further development on such land, either alone or in combination with other properties, can and should be dealt with under the Town Planning Acts without any compensation being payable.

73. On the other hand large blocks of land on part of which there is a *dwellinghouse* (we deal later with industrial premises) should be treated as possibly being the subject of further development and should therefore be treated as "undeveloped land." The difficulty is to draw the line. We have come to the conclusion that the line might conveniently be drawn where the whole plot exceeds one acre. The exact area is not a matter of major importance. We may add that the great majority of dwellinghouses and grounds held therewith which are outside towns will fall within the one acre limit.

(ii) *Treatment of Dwellinghouses and Grounds in excess of the One Acre Limit*

74. We propose that so far as dwellinghouses are concerned the exception should stop there, with the result that, where the one acre limit is exceeded, both the site and the grounds of the dwellinghouse would be treated as "undeveloped land". The cases are infinitely various and range from the mansion with its park to the dwellinghouse which with its grounds comes to slightly more than one acre. A general rule could not be laid down as to the area which might conveniently be treated as part of a mansion or dwellinghouse and individual plotting would be impracticable. The large areas attached to many houses cannot be left outside the scheme and, once the limit of area under our first exception has been fixed, it should be adhered to. Individual cases cannot be considered. The proper course to be followed has to be determined in light of the initial valuation to be made for the purpose of sharing in the General Compensation Fund and also in connection with the question of compensation for injurious affection payable if the "owner's interest" in any part of the land is subsequently taken. It appears to us that all difficulties would be solved if the site of the house as well as all the grounds were treated as undeveloped, there being reserved to the owner the right to rebuild a dwellinghouse on the old site if, apart from this scheme, he may lawfully do so.

The inclusion of the site without reserving to the owner the right of rebuilding a dwellinghouse thereon would give rise to difficulties of valuation of the development rights for the purpose of sharing in the General Compensation Fund, for the possible life of the existing house would then have to be taken into account. A similar difficulty would arise if a right of rebuilding was not reserved and it was necessary, on compulsory acquisition of adjoining land, to assess injurious affection in respect of the house. We think therefore that such a right of rebuilding should be reserved. If the site of the house is included in the initial valuation of the development rights of the property made for the purpose of sharing in the General Compensation Fund, then that valuation would be made on the basis that the house is entitled as against the rest of the site to enjoy ordinary amenities. If the lands are taken at a later date, the compensation for injurious affection can be properly assessed in the light of this right and the right to rebuild.

There are, however, exceptional cases where the building is of practically no value and the real value of the whole property lies in the development value of the grounds. The method of valuation suggested above would then work hardship. In such a case the owner should be allowed an option to have the whole property valued (i) as if there were no amenity restrictions affecting any part of the land, or (at his option) as if these amenity restrictions were only to affect the land for a certain period fixed by him; or (ii) as if no right of rebuilding were reserved. Compensation for injurious affection—if lands are taken at a later date—could be determined accordingly.

We recommend that, as regards dwellinghouses which with their grounds exceed the one acre limit in question, no exception be made but that they should be dealt with on the lines stated above.

(iii) *Industrial and Trade Premises*

75. The second exception is land forming the site or the curtilage of any building used, or adapted and intended to be used, for the purposes of any trade, business or industry other than agriculture. We include in this category land used for purposes such as railway or dock purposes.

All such land should obviously be treated as being developed. It is only necessary for us to make two observations upon the terms of the exception.

(a) In the general case there will be no room for dispute as to the area of the excepted land. But, however accurately worded the Parliamentary definition of this exception may be, there will always be room for disputing the exact area excepted. We think that the Central Planning Authority should have the right conclusively to determine any disputed question.

(b) The Parliamentary definition should be so framed that land which is not directly devoted to trade purposes (*e.g.*, a sports ground owned or leased by a commercial undertaking) should not be included in the exception.

(iv) *Churches, Schools, Hospitals and other similar Institutions*

76. The cases we have dealt with cover most of the field of development. There are, however, scattered outside town areas, churches, chapels, schools, hospitals and other similar institutions. The church and its graveyard and the chapel and its grounds should obviously be excluded. As regards schools, hospitals and other similar institutions, the sites and the land held therewith should be treated on the same footing as dwellinghouses (*see* paragraphs 71 to 74 above).

(v) *Inclusion of Common Lands, Sports Grounds, etc.*

77. There are four classes of land to which we make special reference, viz., common lands, lands used for purposes of sport, etc., derelict lands, and public highways and sterilised land.

(a) *Common Lands*

Owing to statutory restrictions development rights in common lands are—speaking generally—worthless. We think such lands should be included within the scheme. Their inclusion will not involve any alteration in their management or in their use.

(b) *Sports Grounds, etc.*

Golf courses, race courses, sports and recreation grounds, private open spaces and the like should we think be included within the scheme. They may be wanted for development, and the rights should therefore be acquired. The circumstance that the present owners are unlikely to develop is not, in our view, any reason for treating them differently from other owners as regards compensation for loss of development value.

(c) *Derelict Property*

There may be scattered throughout the country properties which have become derelict as a result of either enemy action or other causes. We suggest that these be included only if the Central Planning Authority, after considering the probability of restoration to former uses, so determines.*

(d) *Public Highways and Sterilised Land*

Neither the sites of public highways nor any adjoining land subject to a statutory prohibition against development in connection with the making of a road have any development value. They should be treated as undeveloped land, the prohibition given by the existing sterilisation remaining in force.

(vi) *Undeveloped Land in Particular Ownerships*

78. There remains to be considered whether any undeveloped land should be excluded by reason of the personality of the owner. There are only four cases to which we need refer:—

(a) *Lands under the Management of the Commissioners of Crown Lands*

Very considerable areas of undeveloped land are now held by or on behalf of the Crown. We see no reason why these lands should be excluded from the operation of the scheme.

(b) *Lands held by Government Departments*

It is immaterial whether these lands are brought within the scheme or not. The real question is co-ordination between Government Departments and the Central Planning Authority—a matter with which we are not directly concerned.

(c) *Lands held by Public Utility Undertakers*

We see no reason why undeveloped land should by reason of its ownership by a public utility undertaking be excluded from the scheme.

(d) *Lands held by Local Authorities*

We deal with the position under the scheme of local authorities and their land in paragraphs 125 and 126.

* A different provision was made in the Finance (1909–10) Act, 1910.

(III) COMPENSATION PAYABLE ON ACQUISITION OF DEVELOPMENT RIGHTS

(a) *Assumption that Compensation will be paid and Suggestion as to the Nature of the Fund to be set up*

79. The question whether or not in all the circumstances which will obtain after the war compensation should be paid in respect of the imposition of the restriction on development is a matter of policy upon which it is not for us to express an opinion. We propose, however, to assume that fair compensation will be paid*. This involves that the sum to be paid should represent the fair value to the purchaser of the development rights as a whole.

Our recommendation is that the compensation to be paid should be assessed for the whole country as a single sum (that sum we call the General Compensation Fund), the amount of such sum to be determined by reference to that fair value and such sum to be divided among claimants in accordance with the value of the development rights attached to their lands, a Supplemental Fund being set up to meet exceptional cases.

(b) *The Necessity that the Fund should be a General Compensation Fund*

80. The reason for recommending that compensation should be on this basis is that if piecemeal valuation—the only other alternative—is resorted to the element of “floating value” would be included in each valuation and more would be paid than the rights acquired are in fact worth to any purchaser. We refer to what is said about floating value in paragraphs 23 to 25. The evidence given to us confirmed this view that piecemeal valuation would not produce a fair sum. Our own view is that between two and three times too much would be paid if piecemeal valuation formed the basis of compensation and that a nearer approximation is not possible. If individual valuations would not produce a fair result, discounting individual valuations with any pretence to accuracy is out of the question.

We do not suggest that the method advised in this case is the right course to adopt merely because interests of the same character, or of a similar character are being acquired from many people, e.g., shares in companies carrying on the same class of business. The necessity for adopting the method proposed is dictated by the peculiar nature of the interests being acquired and the impossibility of correctly adjusting floating value if piecemeal acquisition is resorted to.

(c) *Ascertainment of the General Compensation Fund*

81. In our view it is possible fairly to ascertain the proper amount of the Fund. That such a sum is a matter of estimation and not of arithmetical computation is obvious. That the real matter to be taken into account is the economic future of the country is equally obvious. It may be in some respects more difficult to quantify than the sum ascertained for the purposes of the Coal Act, 1938. But the general future economic conditions of the country had to be considered in estimating the value of coal royalties, for royalties largely depend on output. Matters such as the future of the export trade in coal, the prospects of increased efficiency in the use of coal, the prospects of competition of oil as a source of heat and power, the demand for more comfort in housing leading to an increased demand for fuel and light, the possibility of new legislation such as the royalty levy affecting royalty owners only, had, we apprehend, to be taken into review. Future economic conditions will doubtless be difficult to estimate. But they would equally have to be estimated in measuring valuations of the development rights attached to individual parcels.

Objectors to the principle of assessing compensation on the basis suggested by us are compelled either to object to the acquisition being necessary in the interests of national planning or to object to national planning itself, or to

* See para. 36 above.

assert that a payment known to be too much should be made, or to assert that no sum at all should be paid. All these points of view have been put before us.

82. It is outside our province to consider the amount of the Fund, or to enlarge upon the method by which the exact amount of the Fund should be ascertained. It appears to us, however, that the case is one in which, having regard to the considerations involved in its ascertainment, the amount should be fixed by the Government after taking expert advice. We propose therefore only to refer shortly to some specific points which bear upon the fixing of the amount.

83. The sum of £400,000,000 appears in the Barlow Report* as an "intelligent guess" of the value in 1938 of the development rights in undeveloped land. This figure has no relation to the value of the development rights we are considering for it included the value of the development rights over undeveloped land in town areas—a very considerable factor—and was based on the 1937 figures, and in that year there was much activity in housing. A better conception of the amount involved may be obtained by taking the past rate of development of undeveloped land—using the phrase as meaning undeveloped land outside town areas—at 45,000 acres per annum and the average value of development rights as regards that land at £200 per acre. The resultant figure is £9,000,000.† A valuer's method of arriving at a capital sum would be to multiply that sum by a figure representing an appropriate number of years' purchase. In selecting the figure he would be guided by the future prospects of the annual return being increased or decreased. In other words he would take into account all factors bearing on the prospects of development of land not yet developed.

84. In so far as it is necessary for the purpose of fixing the aggregate amount to go into the past there are available in the Valuation Office of the Board of Inland Revenue particulars of all sales and leases made since 1931.‡ The information contained in those particulars will enable a fair picture to be obtained in respect of each year of the amount of undeveloped land sold and the prices paid in respect of development value. One short method of excluding agricultural value and dispositions relating to land in towns (we take illustrative figures) would be to take agricultural value at, say, £40 per acre and to exclude dispositions at a rate of over £1,000 per acre. But a method achieving a closer approximation to accuracy might be followed. It would be necessary to exclude dispositions of land with a potential value, but not ripe for development. In arriving at a total figure some other matters would have to be taken into account, e.g., the purchase price named may have included payments for buildings or for injurious affection or it may have been less than the real purchase price by reason of the operation of betterment provisions. These are, however, minor matters of adjustment only.

85. There is, however, the question of principle whether in taking stock of past development for the purpose in hand an adjustment ought to be made in respect of sales made to local and public authorities and to statutory undertakers. We deal with this point in connection with compulsory acquisition in paragraph 188 and refer to the demand by these bodies as the "public demand." Examples of cases in this category are acquisitions of land for public parks, housing, sewerage works or, in the national sphere, aerodromes

* Cmd. 6153, footnote to para. 256.

† We have not gone into the figures. The figures given may be regarded as a shot. No attempt has been made to shut out public demand in any of its bearings.

‡ Finance Act, 1931, Sec. 28.

and military requirements. Consistently with the view expressed in paragraph 188 that any increased value or any element of value arising from the public demand should be eliminated, then

(a) Where the purchase is one upon which private enterprise would not engage (e.g., purchases for public parks) the transaction would be entirely disregarded, and

(b) Where it was one on which private enterprise might engage (e.g., purchases for housing) an adjustment only would be required.

86. However this point of principle is settled we are satisfied that a sufficiently accurate view can be obtained of the past rate of development, values and the trend of values. The period 1931 to 1937 was, it may be recalled, a period of rapid progress in development.

87.* We turn to the other consideration to which regard must be had in arriving at the value of the development rights. The value of such rights at any one point of time is an estimation of the value at that date of the prospects of future development. In arriving at the figure of value, therefore, the main consideration must be future economic conditions. Past dealings can be a guide only.

88. We do not propose to enter upon a discussion of the general economic outlook but merely to draw attention to some specific points :—

(a) It is predicted that a decline in population will occur which may be expected to reduce future demand for housing. Against this the number of separate families is increasing and may continue to do so for some years. If economic conditions are sufficiently favourable to enable these families to satisfy their natural desire for separate dwellinghouses the demand created may, to some extent, offset the drop in demand which would normally accompany a decrease in population.

(b) The shortage of materials owing to the war must slow up the development of undeveloped land.

(c) The effect of the war on international trade, the existence of factories built for war production, which may or may not be adaptable to peace-time requirements, and the concentration of industry are factors which will tend to a further decrease in the rate of development for some years.

(d) The natural effect of any considerable rise in building costs will be to depress site values.

89. Finally, there remains the question whether there should be shut out the increase in value and any element of value arising from the "public demand". Consistently with the views expressed in paragraph 188 we think they should be shut out. Any enhancement of values due to the prospects or progress of national planning should also be excluded.

(d) Supplemental Fund to meet Exceptional Cases

90. We suggest that a Supplemental Fund should be set up in order to deal with cases which require exceptional treatment. The case that has to be considered is the case where land is "dead ripe" for development. In such a case the element of "floating value" hardly enters into the valuation of the development rights affecting that land, but the value as assessed has, in the distribution of the General Compensation Fund, to rank with assessments into which "floating value" will have found a considerable place. As regards some dead ripe lands moneys may indeed have been spent in connection with roads and other works.

We think that this class of case should be met and that some definition should be laid down with regard to the land to be treated as "dead ripe" land. We recommend that no land or interest in land should be considered as "dead ripe" land unless either plans for its development had been deposited with the local or town planning authority before the 1st September, 1939, or it had been bought or leased for development shortly before the outbreak of the present war. We suggest that only acquisitions made after the 1st January, 1938, should be taken into account.

In our view a sum should be paid equal to the difference between the sum received out of the General Compensation Fund and the individual value of the development rights at the vesting date, subject to the application of the "March, 1939, ceiling" and the elimination of the effect of the "public demand".

(e) *Distribution of the General Compensation Fund*

(i) *General*

91. Under the Coal Act, 1938, elaborate provisions were made which dealt with such matters as the making of claims, the ascertainment of the persons entitled and the distribution of compensation, interim payments on account of compensation and the like. Those matters may for our purposes be regarded as common form, for upon them the present scheme does not open up any new questions. We accordingly do not deal with them.

(ii) *Principles of Valuation of Individual Interests for the Purpose of the Distribution of the General Compensation Fund*

92. We deal in the next paragraph with the detailed matters connected with valuation of individual interests. In the present paragraph we state the principle on which individual interests should be valued for the purpose of division of the General Compensation Fund.

The broad question to be decided is (i) whether in valuing the development rights attached to any parcel of land, the valuation should be made in light of the prospects as they exist at the date of the valuation or (ii) whether the valuation should be made in reference to the prospects as they stood at 31st March, 1939. If the latter method is adopted then for the purposes of ascertaining the ratio in which owners share in the General Compensation Fund the figure which would be ascertained for the "March 1939 ceiling," as explained by us in paragraphs 194 to 201, would be taken.

In our opinion the second alternative should be adopted. It has the merit of simplicity. It assures that as between the various owners affected, the effect of happenings during the war and post-war period (save in so far as there has been damage to the land in question or improvements to that land) are excluded. Moreover, as a practical matter, the task of valuation would be easier and consistency more likely. To adopt the words of an experienced Valuer, "Valuers left off 'valuing' in 1939."

(iii) *Unit of Valuation*

93. The unit of valuation should in the ordinary case be the area of land which on or about the vesting date is in a single ownership occupied and enjoyed as a single holding, but, to meet special circumstances, power should be given to the Central Planning Authority or any delegated authority charged with the valuation to consolidate two or more units, or to divide a unit into two or more units.

Records will require to be kept of the sums paid in respect of any unit or aggregation of units so as to give effect to our suggestions as to surface minerals (paragraphs 117 to 120), and records should also be kept of the ownership of

such units, and in some cases of adjoining properties inside "town areas", so that claims for compensation for injurious affection may be dealt with as and when they arise (*see* paragraph 109).

(iv) *Notice of Claim*

94. Inasmuch as only a small part in area of "undeveloped land" has any development value, service of notice of claim made within a prescribed period should be a condition precedent to a right to compensation.

(v) *Rules of Valuation*

(a) *Rentcharges, Easements, etc., affecting the Land*

95. In valuing the development rights of any unit account will naturally be taken of the value to those rights of restrictive covenants enjoyed by that unit affecting the use of other property and the easements enjoyed over other property, and on the other side account will be taken of the restrictive covenants and easements to which the property is subject so far as they affect the development rights of the unit.* No regard will be paid in valuation to mortgages, tithe rentcharge, or sewers rates or other like charges affecting the land, for these will continue to affect the "owner's interest".

We have dealt in paragraphs 72 to 74 with the rules of valuation to be followed where the valuation is to be made of the site of a dwellinghouse and its grounds and the area involved exceeds one acre.

(b) *Valuation of Separate Interests in a Unit*

96. Where leases do not affect the unit the only interest that will need valuation will be the fee simple or absolute interest. It is immaterial that the land is settled land. Where, however, leases affect the unit, the interest of the lessee and of the reversioner will require separate consideration.

No question of compensation in respect of injurious affection arises for consideration at this stage. That matter comes up for consideration if and when an "owner's interest" is acquired.

(vi) *Valuation Proceedings*

97. Uniformity in valuation is necessary and the machinery of valuation should be directed to securing this end. We suggest that the valuations be made by the Valuation Office of the Inland Revenue Department. The District Valuers are well qualified by their experience for the work and know the conditions of their districts, and they would, we believe, have the confidence of landowners and their professional advisers in undertaking these valuations. They would not be concerned to establish any adverse claim, but would be solely engaged in making valuations for the purpose of distributing a known sum. Claimants should be entitled to make such representations upon the question of values as they may be advised, but there is no room or occasion for any arbitration before the District Valuer or any other person.

98. We think that there should be some right of reference by a dissatisfied claimant from the valuation made by a District Valuer. It is clear to us that the reference should be treated as an administrative matter and dealt with on those lines by the higher officers of the Valuation Office and that the introduction of a referee appointed from a panel would be wholly inappropriate. Only the valuer who has had to apply his mind to an entire area is able to make uniform and consistent valuation.

99. We doubt if any question of law will arise in connection with the ascertainment of the value or otherwise in connection with the distribution

* The effect of Section 84 of the Law of Property Act, 1925, will be taken into account.

of the Fund. But to meet possible cases it might be desirable to make provision for an appeal to the Court on any point of law and, in that event, where the question raises a point of general principle the costs of the claimant should be provided for.

(vii) *Costs*

100. The reasonable costs of claimants in relation to their claim, according to a scale to be laid down, should be paid by the State. Where the development rights claimed are certified as having no value, no costs should be paid.

(viii) *Disposal of Compensation Fund in Favour of Persons Entitled*

101. Provisions following the lines laid down in the Coal Act, 1938, would be satisfactory. Under such provisions a person who on a sale could give a good receipt for purchase money would receive the compensation, mortgagees being entitled at their option either to receive the compensation or to allow it to be paid to the owner of the equity.

(IV) MANAGEMENT

(a) *The Scheme to be Managed by the Central Planning Authority*

102. The development rights are being acquired for the purpose of National Planning. It is immaterial in whom those development rights are in fact vested on behalf of the State. That is machinery only. It is essential that the development rights and all other interests in land which may be acquired under the scheme should be managed by the same body as controls planning. In other words they should be managed by the Central Planning Authority.

It is implicit in the conception of planning that the management should be directed to forwarding the interests of planning and not with a view to the financial return. The sum paid for the development rights should be regarded as of historical interest only.

The Central Planning Authority may, we apprehend, delegate to regional or local authorities some of their powers relating (*inter alia*) to the disposition or management of land. That does not open up any question of principle under the scheme.

While National Planning will make many demands upon those responsible for it, the scheme demands nothing but intelligent and prompt administration. Until development is proposed nothing but the enforcement of the restriction, and, in exceptional cases, the grant of temporary licences, will be called for.

The question whether development is to be permitted will be determined as a matter of planning by the Central Planning Authority or regional or local bodies in their capacity as planners. It cannot be said therefore that the scheme in any direction imposes any burden on planning.

(b) *Acquisition of Land for Development Purposes and Method of Disposition*

103. One of the objects to be secured by National Planning is that where land is required for a public purpose or for private development, suitable land should be made available for that purpose. Another object to be secured is that, if land is disposed of for private development, the land shall in fact be used and continue to be used for the approved purposes. Land, as we have said, should not be wasted and, again, enterprise should not be hindered but should be encouraged. In carrying out these objects it should, as part of the present scheme, be made certain that an occasion should not arise for the acquisition over again of the development rights in the same land.

With these considerations in mind it appears to us that where it is proposed that land should be developed and the development is approved, the Central

Planning Authority should acquire the "owner's interest"—compulsorily if need be.

104. The "owner's interest" and the development rights must be amalgamated. In cases where the land is being acquired for public purposes the question of the method of disposition need not be pursued. But where land is being acquired for purposes of private development the question of the method of disposition does arise. Where the land is required to serve the purposes of a private developer, the Central Planning Authority should in our opinion lease the land to the developer for an appropriate term of years determined by the nature of the proposed development and subject to covenants and restrictions suggested by the nature of the case and planning considerations. These covenants should include a covenant by the developer to carry out the proposed development. Breach of any covenant or restriction should be enforceable by re-entry as is usual in the case of a lease, the Court having jurisdiction to relieve against forfeiture in the ordinary way.

Upon this we make the following observations :—

First.—It is inconsistent with the permanence of the scheme and the necessity of securing that a proposed development will be carried out, that the land should be disposed of outright to a private developer. Disposition by lease is the only practicable method of securing that the planning machinery embodied in the scheme should be permanent, and that the development immediately under consideration is carried out or the land liable to forfeiture.

Second.—If the land is to be developed, it is inconceivable that the two interests—the "owner's interest" and the development rights—should continue separated. As it is necessary for the State to have control, the "owner's interest" should be acquired by the State. This reasoning applies whether the intending developer is some third party or the owner of the "owner's interest."*

Third.—There must be power of compulsory acquisition of the "owner's interest" in land required both for public development or private development. The State must be in a position to acquire the "owner's interest" and marry it to the development rights. Without that the acquisition of the development rights is no acquisition at all.

Fourth.—As a matter of administration where the competing developers are the owner of an "owner's interest" and another party, preference, other things being equal, should be given to the owner.

105. There are some observations to be made on the matter thirdly dealt with in the preceding paragraph. A compulsory power of acquisition to serve the purposes of private development is, speaking broadly, a new thing. It will demand prompt and sane administration.

One may assume that the landowner will often not desire to dispose of his land. If that be his attitude, he may well raise the question why his land rather than the land of an adjoining owner, should be taken. He will have a nuisance value. Doubtless in many cases negotiations between the intending developer and the landowner will precede the acquisition. We are prepared to face the possibility or the probability that in order to clear the ground the intending developer may see that in some form or other the landowner gets more than he would on a compulsory acquisition. That possibility or probability cannot we think be effectively provided against, and it

* But see para. 106.

is not worth while making the attempt. If the parties can come to an accommodation, we see no reason why they should not do so. It will then be only a formal matter for the State to acquire the land and lease to the developer. If they cannot come to an accommodation then the matter must be dealt with by the Central Planning Authority which may be faced with the necessity of considering which of several alternative sites ought to be made available for the purposes of the private developer. Indeed the Central Planning Authority may be faced with the necessity of making a decision upon that point when no objecting landowner had regarded the needs of the developer as affording an occasion for profit.

That is a necessary consequence of the scheme. We see no way of obviating that objection—if it be an objection—except by giving the landowner some inducement in the shape of a share in the proceeds resulting from a disposition of the development rights. For the reasons stated in paragraph 133 we reject that as a solution.

It may be added, *first*, that, a similar class of question arises in the making of town planning schemes under the Act of 1932, where the point to be decided is what is to be reserved for private dwellinghouses and what area is to be available for business purposes; and, *second*, that the number of cases in which the Central Planning Authority may be called upon to make a choice between sites can easily be exaggerated.

106. In the course of administration of the development rights, it may well be proper and convenient to depart from the method of disposition stated in paragraphs 103 and 104. The principle should be preserved; the rule may be departed from. The first case is land acquired by a local authority for development. We deal with this case in paragraphs 125 and 126.

Another case is where the proposed developer is a statutory body requiring the land for a permanent statutory purpose. Such a case and similar cases could aptly be dealt with by a grant of a lease for a longer term than would normally be given.

The only remaining case to which we propose to refer is the case where a person desires to develop by building on his own land a dwellinghouse for his own occupation and that method of development is approved. There, it seems to us, the needs of the case might sufficiently be met by granting a licence to build on appropriate terms and subject to an appropriate premium or annual charge determined by reference to all the circumstances of the case, including in particular any sum paid in respect of the development rights of the plot in question. Subject to the licence the development rights would remain vested in the State, and the land treated for all purposes as undeveloped land.

(c) *Compensation for Land Acquired and for Injurious Affection on Acquisition of "Owner's Interest"*

107. We have stated in paragraph 103 that when land is to be developed the "owner's interest" should be acquired. It is now proposed to deal with the compensation payable in respect of the acquisition. Two matters have to be considered. *First*, the compensation payable in respect of the "owner's interest" acquired, and, *second*, the compensation payable in respect of severance or other injurious affection.

(i) *Compensation for Land Acquired*

108. In default of agreement the compensation will be assessed in accordance with the ordinary rules applicable on compulsory acquisition. The thing to be valued is the property subject to the restriction on development, in its then state. No enquiry into the history of the property will be called for.

(ii) *Compensation for Injurious Affection*(a) *Principles*,

109. In valuing the development rights no account will be taken of the injurious affection which may be suffered by the owner by reason of any future exercise of the right of development. That matter falls to be dealt with when development rights are exercised.

The existing law as to compensation for injurious affection is summarised and our views and recommendations are stated in paragraphs 206 *et seq.* Our general proposal here is that the existing rules, amended as there suggested, should be followed, subject to such further modifications as are necessary by reason that the development rights have been acquired at one date and the question of compensation for injurious affection arises at a later date. Between those two dates changes of ownership in the land affected and in the surrounding land may have taken place.

110. As appears from paragraph 206 a claim for injurious affection occasioned by user of the authorised works depends on the possession by the owner of the property injuriously affected of some interest in the lands taken. The existence of this rule renders it necessary to decide what is the date to be taken into account for ascertaining whether there is such a possession. That is the principal question, but the same question also arises on a claim for severance.

The points of principle to be secured are that the rules as to compensation for severance or other injurious affection should not hamper dealings in land, and that the owners receive proper compensation but are not to be in a position, by acquiring lands after the vesting date, to create claims for compensation for injurious affection which, but for that acquisition, they would not have any grounds for claiming. With good planning, the cases in which compensation for injurious affection will be large should, we think, be rare.

In the following paragraphs we suggest rules designed to give effect to these principles.

(b) *Rules*(1) *The Property to be considered*

111. In all cases of injurious affection the compensation will be assessed by reference to the state of the property as it stands at the date of the acquisition of the land or, if no lands are taken from the owner, at the date of the execution of the works complained of.

(2) *Severance and other Injurious Affection to Lands (not including Buildings)*

112. Except in so far as the claim for severance falls to be measured in respect of damage to buildings on the lands retained, the claims should be determined by reference to the common ownership of the lands taken and the lands retained as that ownership stands at the date of the acquisition of the "owner's interest."

In the excepted case—the claim for damage for severance so far as it affects buildings—the rules to be applied will be the same as those we now propose to state as regards injurious affection by user suffered in respect of buildings.

(3) *Injurious Affection by User suffered in respect of Buildings*(a) *When Buildings exist at Vesting Date*

113. Apart from the scheme, an owner possessed of buildings and surrounding land would, on a disposition of surrounding land owned by him,

be able, by imposing suitable restrictive covenants on the occasion of the disposition, to preserve the amenity of his buildings. When the scheme is in operation, he cannot do so effectively because the development rights in the surrounding land are vested in the State. It is necessary therefore to provide that a disposition by him of his surrounding lands shall not prejudice any claim by him or his successors for compensation for injurious affection to his building by user. Equally it is clear that an owner ought not to be in a position to give himself a new or higher claim for injurious affection to his buildings by the acquisition of other lands, the development rights in which are, by virtue of the scheme, also vested in the State.

In our view, therefore, in the case of injurious affection by user to buildings which existed on the vesting date, including amenity buildings put up at a later date, the point of time to be looked at in determining whether or not, for the purpose of founding a claim for injurious affection, there is vested in the owner of the buildings an interest in lands taken, should be a date not later than the vesting date.

114. Cases are not uncommon in which owners, who apprehend that compulsory acquisition is in the air, acquire interests in other land with a view to laying the foundation for a claim for injurious affection which would not otherwise arise. We do not know what date will ultimately be fixed as the vesting date, but if the vesting date is appreciably removed in time from the date of publication of our Report, it may be desirable that the point of time to be fixed for the purposes of determining the interests of the owner on any claim for compensation for injurious affection, should be even earlier than the vesting date, e.g., the date of publication of this Report.

115. The question also arises whether any interest in the lands subsequently taken which existed at the vesting date should be sufficient for the purpose in hand. As the law now stands any interest in the lands taken, however small in duration or kind, is sufficient. We think that this rule should be somewhat modified. We suggest that there should be excluded from the category of interests the ownership or possession of which at the date to be fixed as above is sufficient to give rise to a right to compensation for injurious affection in respect of buildings :—

(i) Tenancies which have expired before the date when the lands to which they relate are taken and in respect of which there have not been renewals in force at that date, and

(ii) Options to purchase or lease which have not been exercised and which have ceased to be exercisable.

Owners should, on the occasion of the making of their claims in respect of their development rights, be required to state what were the interests in land which they possessed at the fixed date referred to, and the possession of which they conceive to be of relevance for the purpose of any possible future claim for injurious affection.

(b) *Where Buildings are erected after the Vesting Date*

116. In so far as the new buildings are merely additions to, or improvements of, buildings which did exist on the vesting date, or have been put up to serve the amenity of such buildings, it seems clear that no distinction should be drawn between the new buildings and the original buildings. That class of case is dealt with in (a). The only case which it is necessary to deal with is the case where, by the licence of the Central Planning Authority, but without any acquisition of the "owner's interest" by the State, the erection of a dwelling has been authorised. In our opinion the whole matter of compensation for injurious affection should be dealt with in the licence.

(V) VARIOUS MISCELLANEOUS MATTERS

(a) *Surface Minerals*

117. It has been suggested to us that the State should proceed to acquire all minerals in addition to those which it has already acquired under the Coal Act, 1938. In our view such acquisition is not necessary for the purposes with which we are concerned and we accordingly do not recommend that acquisition.

118. The fact that land contains surface minerals, whether or not the minerals are owned separately from the surface and whether the minerals are at the vesting date being worked or not, is not for our purposes to take it out of the category of "undeveloped land", and the working of such minerals is not to be included in the term "development". On acquisition of development rights under the scheme, neither the surface minerals as such nor any right to work them is in any case to pass to the State. Inasmuch as any exercise of the right to work the minerals will in most cases lessen, and in some cases destroy, the value of the development rights vested in the State it is necessary to make some special provisions as regards the minerals. Those provisions are designed to secure that, notwithstanding the acquisition of development rights, the convenient working of these minerals may continue and that, where not allowed, proper compensation will be paid. The provisions we suggest are based on three separate considerations.

First.—As neither the minerals nor the right to work them will vest in the State on acquisition of development rights, no compensation will be paid in respect of the mineral value on acquisition of the development rights.

Second.—Under Section 19 (2) (iii) of the Town and Country Planning Act, 1932 (which we recommend later should be modified in one respect*) the winning of minerals by surface working may in certain cases be prohibited altogether without liability to compensation.

Third.—The general questions whether, with a view to the subsequent utilisation of the surface, there should, as part of the general law relating to the working of surface minerals, be imposed obligations as to the restoration of the surface—a matter considered in regard to ironstone by the Kennet Committee†—or whether other conditions directed to the preservation of the amenity of the district should be imposed on persons working minerals, or whether in specific areas surface mineral workings should be prohibited, lie outside the purview of the scheme for the acquisition of the development rights. These questions are very important but they are planning questions and have nothing to do with the scheme. It is for that reason that we do not as part of the scheme suggest any conditions relating to working except such as flow from the acquisition of and payment for the development rights.

119. The provisions we suggest are as follow :—

(a) In the simple case where at the vesting date the minerals and the land are in the same ownership and no working is taking place and there is no lease of the minerals, then, for the purpose of compensation payable on acquisition of the development rights, such rights will be valued as if the surface would not be interfered with by the working of the minerals.

If it is desired to work the minerals at a later date, then a licence to do so must be obtained. If the State is prepared to grant the licence, it

* See para. 252 below.

† Report (1939) of the Committee on the Restoration of Land Affected by Iron Ore Working.

may impose terms not more onerous in effect than repayment of the sum paid for the development rights in respect of the land in question, together with simple interest at the rate of 3 per cent. per annum from the date of payment, the exact terms of any licence being determined by reference to all the circumstances. If the State is not prepared to grant a licence on such terms, then compensation is to be payable unless the case is one in which—consistently with town planning legislation—a planning scheme might, in the view of the Central Planning Authority, have properly provided that no compensation should be payable in respect of the working of the minerals.

(b) Where at the vesting date the ownership of the minerals is severed—either completely or under a lease—from the ownership of the surface and no workings are taking place, the development rights in the surface will be valued in the usual way, regard being had to the probability of the minerals being worked or otherwise. The whole compensation will go to the surface owner.

If it is desired to work the minerals, then a licence must be obtained, and, unless a free licence is granted to the applicant, compensation is to be payable except in the case mentioned at the end of (a) above.

(c) Where surface minerals are being worked at the vesting date whether by the owner of the surface or by the owner, or lessee of the minerals, then the development rights will be valued in light of that working, the prospects of further working, the terms of any lease, and all other relevant considerations. The working will be allowed to continue.

120. We would add, *first*, that, where compensation is payable under these provisions, the burden of such compensation will not of course fall upon the General Compensation Fund or Supplemental Fund, and, *second*, that, where there is a lease, either the lessor should be bound to enforce any covenants for restoration of the surface contained in that lease or the State should be empowered so to do, for the value of those covenants will have been taken into account in determining the value of the development rights.

(b) *Incidental Powers of acquiring Land Excluded from the Scheme*

121. There are various incidental powers relating to the acquisition of interests in land which it appears to us necessary to confer upon the Central Planning Authority.

(i) *Derelict Land*

When buildings on land outside a "town area" hereafter become derelict, the Central Planning Authority should be empowered compulsorily to acquire the land.

(ii) *Isolated Properties*

There may, in an area comprising almost entirely undeveloped land, be included parcels of developed land the acquisition of which becomes desirable for the purposes of a scheme of development proposed to be actively pursued. In this case, the Central Planning Authority should have power compulsorily to acquire such parcels.

(iii) *Easements and Restrictive Covenants.*

In connection with some general scheme of development or a disposition by way of lease of undeveloped land, it may be necessary to acquire an easement over land or to interfere with an easement or to infringe a restrictive covenant enjoyed by such other land over the land proposed

to be developed or leased. The Central Planning Authority should have power compulsorily to acquire the easement or to extinguish or interfere with the easement or restrictive covenant affecting the land proposed to be developed or leased.

In all these cases compensation, to be assessed in the ordinary way, will be payable.

(c) *Treatment of Easements and Restrictive Covenants.*

122. The effect of existing restrictive covenants and easements will not be in any way interfered with by the acquisition of the development rights. They will continue unimpaired. But, inasmuch as they will have been taken into account in determining the value of the development rights attached to the lands entitled to or affected by them, they should be regarded as in some measure annexed not only to the land but also to the development rights.

A similar class of point arises as regards restrictive covenants entered into by owners of "owner's interests" and easements created by such owners after the commencement of the scheme. They should be regarded as affecting the "owner's interest" only.

123. We forbear from stating the detailed working out of the matter either from the point of view of a conveyancer or a valuer, but there appears to us only one case which ought to be mentioned as it will require special treatment.

Owners of land subject to the scheme will be free to enter into new transactions relating to easements. But an owner of land subject to the scheme will, by reason of his having parted with the development rights, not be able to detract from the value of those rights by creating new interests which would affect the future exercise of those rights. He will be able to bind the "owner's interest" but not the development rights. In some cases a grant binding only the "owner's interest" would be sufficient for all practical purposes. In other cases (e.g., a right of way) it might not. The proper use of one piece of land within its authorised purposes should not be impeded by the existence in the State of the development rights in another piece of land. There should therefore be available machinery under which grants of easements or other like rights can readily be made fully effective. All that will be necessary in form would be confirmation by the State of a grant made by the owner of the owner's rights. In most cases we apprehend that the points of substance to be considered would lie in a narrow compass.

(d) *Effect upon Existing Contracts of the Vesting of Development Rights in the State*

124. It is desirable that the adoption of the scheme should not give rise to litigation as to the rights *inter se* of persons who have entered into contracts for the sale or leasing of undeveloped land, or who, under existing leases or otherwise, are under an obligation to carry out works of development. If no provision is made, there will arise questions whether a case of frustration has arisen or whether performance of some particular obligation is excused, or whether an application to and refusal by the Central Planning Authority for a licence to carry out a work of development stipulated for is necessary in order to establish frustration or secure excuse. These questions, we may observe, may arise in connection with the valuation of particular interests.

Questions such as these are not easy of solution, and the results when determined according to the law of England are not entirely satisfactory.

We suggest therefore that some legislative provision should be made for dealing with these cases. The problem is, however, a general one arising in all cases where the State imposes restrictions on the use of property, or where events happen which are outside the contemplation of the parties to a bargain

at the time when the bargain is made. The whole matter was considered by the Buckmaster Committee* in the year 1918 and by another Committee† in the year 1939. We do not therefore propose to make any suggestion as to the lines on which the necessary legislation should go. We only recall that in our Interim Report dated 28th April, 1941, we stated that we had under consideration a scheme on the lines of the scheme now advocated, and gave warning that persons should not enter into commitments which they might find themselves unable to carry out.

(5) LOCAL AUTHORITIES AND THE SCHEME

125. The position which local authorities will have under National Planning has yet to be determined, and we are concerned here with that matter only in so far as it bears upon "undeveloped land" outside a "town area" which a local authority may own at the vesting date or may thereafter acquire or desire to acquire.

Upon this we make these observations:—

First.—We apprehend that any future planning by a local authority, whether it affects "undeveloped land" now owned by it or "undeveloped land" hereafter acquired by it, will be subject to consideration by the Central Planning Authority in light of the general policy of National Planning. It may be that a restriction on the development of "undeveloped land" now owned by the local authority will by reason of national considerations be imposed on that land.

Second.—After the scheme is in operation, local authorities wishing to acquire "undeveloped land" will need to secure both the "owner's interest" and the "development rights". The ambit of their powers and the form in which the local authority will hold the land (as fee simple owners or lessees from the State) will need to be considered.

Third.—It may happen that a local authority will wish to dispose of "undeveloped land" which it has acquired and the retention of which proves unnecessary for its purposes. Land so disposed of should not, at any rate after disposal, be excluded from the general category of land the development rights in which are vested in the State.

126. It appears to us that until the relation between the Central Planning Authority and local authorities and the ambit of the power of local authorities have been determined, it is impossible to come to a decision on the way in which "undeveloped land" outside "town areas" now held or hereafter acquired by local authorities should be treated for the purposes of the scheme.

(6) EFFECT OF THE SCHEME ON EXISTING PLANNING LEGISLATION

127. The existing legislation on town planning is directed to local planning by local authorities. The new conception is national planning. That of itself suggests the necessity of reviewing the lines on which the Town and Country Planning Act, 1932, proceeds, but we are only here concerned with the question whether the adoption of the scheme we suggest requires any particular modification to be made in that legislation.

Upon this we make several observations:—

First.—Under the Act of 1932 planning schemes may be made in respect of any land except "static areas."‡ In Section 12 (3) there is a special provision as to agricultural buildings.

* Report of the Committee on the Position of British Manufacturers and Merchants in respect of Pre-war Contracts (Cd. 8975).

† Report of the Committee on Liability for War Damage to the Subject Matter of Contracts (Cmd. 6100).

‡ See para. 12 above.

Second.—As the result of the scheme we suggest, “undeveloped land” outside towns will, until development, be subject to restrictions affecting its use which (apart from the question of surface mineral workings), speaking broadly, will render it unnecessary that, so long as the land remains undeveloped, there should appear in schemes made under the Town and Country Planning Act, 1932, provisions regulating their use. Where such undeveloped land is disposed of for development, the uses to which it may be put will be regulated by the lease under which it is held.

Third.—Surface mineral working both inside and outside towns might conveniently be made the subject of a separate code.*

Fourth.—As regards land outside towns which is excepted from the definition of “undeveloped land,” planning legislation in some form will be necessary.

Lastly.—Planning schemes may relate in some cases exclusively to land inside towns and in other cases both to land inside and land outside towns. In any event local authorities in framing schemes will need to take stock of both classes of land.

Upon this topic we cannot say more than that the first matter to be determined is the relation between the Central Planning Authority and regional or local authorities. Until that has been decided a conclusion as to the area to be subject to local schemes cannot be arrived at.

(7) TRANSITORY PROVISIONS DIRECTED TO THE WORKING OF THE SCHEME BEFORE SETTLEMENT OF “TOWN AREAS” OR THE QUESTION OF COMPENSATION FOR DEVELOPMENT RIGHTS

128. The delimitation of all “town areas” and the ascertainment and distribution of the General Compensation Fund will take some time and post-war requirements will need to be dealt with before these matters are disposed of. If the principle of the scheme is accepted, there is no reason why undeveloped land should not be dealt with on the basis of the acceptance of the scheme notwithstanding that none of the matters to which we have referred has been disposed of. Indeed, to avoid possible inequalities it is desirable that the scheme, if it is to be accepted, should be brought into operation at once.

The two cases which have to be considered are the case where land is proposed to be acquired by a local or other public authority and the case where an owner desires to develop land which might fall within the definition of “undeveloped land” outside a “town area.”

129. There ought not to be any practical difficulty in determining in any particular case whether land will fall within the category of undeveloped land outside a “town area,” and we suggest that it will be sufficient for legislation to be passed to the following effect :—

(i) The Central Planning Authority shall be entitled to certify whether or not any particular plot of land is to be treated as “undeveloped land” for the purposes of the scheme. Their certificate should be made conclusive. The power should extend not only to the land under immediate consideration, but also to any adjoining land relevant for injurious affection.

(ii) If the land is certified to be “undeveloped land” then—

(a) Where the land is required for a purpose in respect of which a power of compulsory acquisition exists and a local or other public authority proposes to acquire the land for that purpose, the compensation

* See paras. 117-120 above.

(whether it be agreed or ascertained on arbitration) should be limited to compensation based on the footing that what is being compulsorily acquired and then paid for is the "owner's interest", *i.e.*, the land shorn of the development rights.

(b) Land so acquired would, for the purposes of ascertainment and distribution of the General Compensation Fund, be treated as "undeveloped land" and in respect of the development rights the landowner would receive his *pro rata* share of that Fund, and in appropriate cases a payment from the Supplemental Fund.

(c) Where the land is proposed to be developed by a private developer who owns the land and the development is approved, the Central Planning Authority should be authorised to acquire the "owner's interest" from him on the terms stated in (a) and (b) and, when acquired, to lease it to him on the lines stated in paragraph 104.

(d) Where the land is required for development by third parties and the proposed development is approved by the Central Planning Authority but the owner will be no party to the matter otherwise than on unreasonable terms, then the Central Planning Authority should be entitled compulsorily to acquire the "owner's interest" on the terms stated in (a) and (b) and the land would then be leased as stated in (c).

(e) Any question of compensation for severance or other injurious affection in respect of the owner's adjoining land will be determined according to the general principles herein stated.

(iii) If the land immediately in question is certified not to be "undeveloped land", then, where it is being compulsorily acquired, it lies outside the ambit of the scheme. But in exceptional cases where adjoining land belonging to the same owner is certified to be "undeveloped land", compensation for severance or other injurious affection will be ascertained on the footing that only the "owner's interest" in the adjoining land is vested in the owner.

130. The duties to be required of the Central Planning Authority under these transitory provisions will in substance be only such as they will at some time or other be called upon to perform under the scheme when it is in full operation.

(8) CRITICISM OF TWO ALTERNATIVE SUGGESTIONS

131. It has been suggested to us, as an alternative to the scheme we recommend, that the prohibition against development should be imposed on all undeveloped land but that payment of compensation, instead of being made immediately and to all owners in respect of their development rights, should be postponed until the several occasions arose when land was acquired for development or when an application to develop was refused or granted subject to conditions. In our view the objections to such a scheme are overwhelming. Among the objections, of which the first is conclusive, are the following:—

First.—In those cases where applications for development were refused or conditionally granted, payment of compensation upon the basis of the current development value would lose to the State all accrued betterment and would fail to eliminate the effects of "shifting value" and "floating value"; in other words, wherever any development value was shown to exist the compensation paid would tend to be excessive.

Second.—The scheme would not work fairly among landowners. An owner who abstained from making his application until applications in respect of surrounding land had been refused, would find it impossible honestly to allege any development value in his own land: the State would therefore almost certainly find itself met at once with claims or

applications in respect of all land having at the present time any potentialities for building, and would have either to say "yea" or "nay" to such applications before the general outline of planning for the relevant localities had been determined, or to postpone its decisions for an indefinite period.

Third.—The competing interests of the owners would result inevitably in lobbying and attempts to influence development in particular directions.

Fourth.—In cases where development was permitted or approved it would, unless the whole of the "betterment" was to accrue to the private developer, be necessary for the State either to acquire the land in question on some basis of valuation which excluded the prospect of the development proposed or to make some levy upon the increase in value due to the development. In either case the problem of valuation would be artificial and difficult.

132. Any attempt to meet these objections involves the costly and elaborate machinery of making a present valuation of every undeveloped site in Great Britain, such valuations to form the basis either of a levy on all subsequent increases in value or of any compensation paid at any time thereafter (and that notwithstanding any changes in the way in which the sites were owned or occupied) upon acquisition or upon the refusal of an application to develop. The result would be to do only the formal part of the operation now—namely, the imposition of the restriction—and to postpone indefinitely the substantial part. In truth, the whole matter would be postponed. The seeds of controversy are sown: the water is laid on.

We therefore reject this alternative scheme. We believe it would involve in most cases the payment of excessive compensation. We are satisfied that it would be destructive of any true policy or programme of National Planning.

133. A further variant of our own scheme has been suggested, namely, that the State should not, if the owner so elects, pay for the whole of the development rights acquired, but only for some percentage thereof, so as to leave in the original holders, as sleeping partners, some share in the benefits of future development. It is suggested that such a form of partnership would act as a stimulant to development and remove any reluctance of the owner to part with his interest on the occasion of development, as the landowner would then get a share of the consideration.

We reject such a system of partnership. We think it would cause grave dissatisfaction to an owner living in hopes of getting his share of a consideration to find his lands decreed to be devoted to agriculture. Further, to fix a proper percentage which could be left in private hands would be a delicate matter. Unless it were reasonably substantial the attraction would be insufficient; on the other hand, it would be contrary to the principles accepted in regard to betterment to leave a large percentage in private hands to be lost to the State. The retention of a financial interest in private hands would, it seems to us, inevitably involve the planning authority in the type of embarrassment and conflict which our scheme is designed to avoid. For it is plain that every decision involving restriction of development in one place and its encouragement in another would involve also the conflicting private interests of the individuals concerned. It would be imperative to make it plain that the landowner electing to become a partner would only be a sleeping partner. Nevertheless, the Authority would undoubtedly receive from time to time all manner of representations on the part of the landowners and their successors whose real interest would be to see that development of some kind took place on their land. The interest of the landowner would be a financial interest only. The old controversy between private interest and the public interest would remain. The old weed remains.

CHAPTER V

DEVELOPED LAND*

(1) INTRODUCTORY

134. In Part I of our Report we referred in general terms to the problems presented by built-up areas and in paragraphs 29 to 31 we outlined the main requirements and objects of planning in towns and cities and indicated some of the difficulties to be considered. We gave in paragraph 11 a description of an area in Birmingham which had to be dealt with. To that instance we would add another. We have been informed that in London alone there are between 6,000 and 10,000 acres requiring redevelopment by reason of narrow streets and the existence of obsolete buildings. Some idea of the extent to which, war damage apart, there is need for redevelopment in built-up areas, may be gathered from these two examples. There must be added the need—and opportunity—for reconstruction arising from the existence of war-damaged areas. We do not enter into details.

135. Government spokesmen have emphasised that post-war reconstruction should have as one of its aims the transformation of our towns and cities into more worthy centres of living, sufficient to meet the needs of modern civilisation and provide citizens with a healthy environment both for work and leisure.

We propose, therefore, to assume that we are to envisage plans on bold lines framed according to the dictates of good planning and involving, where necessary, a complete disregard for existing lay-outs.

The comprehensive re-planning of towns and cities will necessarily be a lengthy task and there will in different places be considerable variation in the order in which authorities embark upon the subject matters of planning, e.g., reconstruction of war-damaged areas, clearance of slums, provision of houses for the working classes, redevelopment of areas containing obsolete buildings, provision of improved traffic facilities and open spaces. It is therefore necessary to consider the powers and machinery under two heads :

First, the measure of interim control required now and during the immediate post-war period ;

Second, the measures necessary on the assumption that it may necessitate large-scale operations to deal with heavily war-damaged areas and the type of obsolete area we have described.

(2) CONTROL DURING INTERIM PERIOD

136. In our Interim Report we recommended the granting to the Central Planning Authority forthwith of powers of control over building and all other developments throughout the whole country by reference to national planning considerations, and we recommended that such power should continue in operation for a reasonable period after the end of hostilities while the broad lines of reconstruction were being worked out. The Government have recognised the necessity of some such control but have stated that they think that any further safeguards necessary can be provided by strengthening the provisions of the Planning Acts and that they propose to introduce legislation on these lines.†

* Reference should also be made to our proposals for imposing a " life " on non-conforming buildings and uses in Chapter VIII, paras. 247 to 251.

† See para. 4 above.

In view of this decision it is unnecessary to do more than to point out that the whole of the country should be covered. Many important areas are not at present covered by planning resolutions, and it appears that the most convenient method of achieving the object in view is to **provide by legislation that areas not already covered by operative schemes or resolutions to plan should be deemed to be subject to such resolutions ; and we recommend accordingly.**

(3) EXISTING METHODS OF REDEVELOPMENT

137. The powers available under existing legislation relating to redevelopment are contained in the Town and Country Planning Act, 1932, and the provisions of the Housing Act, 1936, relating to Redevelopment Areas and Clearance Areas. It is necessary to examine these powers, and the procedure under the Acts, from the aspect of suitability for the task of reconstruction.

(a) *Town and Country Planning Act, 1932*

138. The existing planning legislation is designed mainly for the purpose of guiding or regulating private development over a period of time. The preparation of a planning scheme proceeds in consultation with owners and other interested parties, and numerous opportunities are afforded for objections to be lodged. When the scheme is submitted to the Minister he holds a local enquiry to consider any objections which have not been met and to decide whether to approve, modify or disapprove the scheme. On final approval the scheme is laid before both Houses of Parliament and, subject to any modification arising out of Parliamentary proceedings, becomes operative unless challenged in the High Court.

The procedure provides for advertisement and notification at every stage and consideration of suggestions or objections. We set out in detail in Appendix II/ the steps required to be taken from the date of a resolution to prepare a planning scheme up to the final approval of the scheme. The preparation and bringing into operation is necessarily a lengthy task under a system based on negotiation with existing interests, and, although time limits are imposed by Statute for the completion of each stage, the Act enables the periods to be extended. In practice it usually takes several years for a scheme to reach final form. Moreover, even when the scheme is operative, the planning authority have only limited powers to compel or hasten positive development or redevelopment. A critic might be forgiven for thinking that planning was regarded as a sin or a luxurious pleasure, not a duty.

It is clear to us that this elaborate and lengthy procedure and largely negative system, which has been widely criticised in the evidence submitted to us, would be wholly inadequate to deal with large-scale schemes of post-war reconstruction. Methods are required which are simpler, more expeditious and more positive in character.

(b) *Housing Act, 1936*

Redevelopment Areas

139. It was partly due to a recognition that the ordinary planning procedure would not be an effective instrument for securing the redevelopment of unsatisfactory town areas that the Redevelopment Area procedure was introduced by the Housing Act, 1935, and was reproduced in the consolidating Housing Act of 1936. On a long-term basis of thirty or forty years, during which a considerable number of leases might fall in, planning procedure might have provided some opportunity for improving the lay-out or increasing the width of streets, but, without more extensive powers of compulsory acquisition and more positive powers of action, the process would be slow and piecemeal. The Redevelopment Area provisions of the Housing Act, 1936, were designed

to facilitate the systematic redevelopment of districts containing a large number of working-class houses of which a substantial proportion was unfit, overcrowded or congested. The Act enables such areas to be scheduled for redevelopment as a whole, and the procedure provided by Sections 34-37 and the Second Schedule is as follows :—

(i) Areas to be dealt with by these powers must conform to each of four conditions :—

(a) they must contain 50 or more working-class houses ;

(b) one-third of the working-class houses must be overcrowded, or unfit for human habitation and not capable at a reasonable expense of being rendered so fit, or be congested ;

(c) the industrial and social condition of the local authority's district must be such that the area should be used to a substantial extent for housing the working classes ; and

(d) it must be expedient from the point of view of housing the working classes that the area should be redeveloped as a whole.

(ii) Where these conditions exist it is the duty of the local authority to define the area on a map and pass a resolution declaring it to be a proposed redevelopment area. They must publish notice of their action and forward a copy of the resolution and map to the Minister.

(iii) Within 6 months of passing the resolution the local authority must submit a redevelopment plan to the Minister showing the general character of the new development and particularly the land intended to be used for the provision of houses for the working classes, for streets and for open spaces.

(iv) The local authority must notify their intention to submit a plan by advertisement in local newspapers and the service of notices on every owner, lessee and occupier (except tenants for a month or less period) of land in the defined area and on all statutory undertakers owning apparatus in the area.

(v) If objections are made and not withdrawn, the Minister must hold a public enquiry, after which he may approve the plan with or without modifications (including the exclusion of land from, but not the addition of land to, the defined area). The plan if approved becomes operative within 6 weeks, subject to the right within that period to challenge its validity in the High Court.

(vi) The local authority must advertise the approval of the plan and serve a notice thereof on every objector who, having given notice of his objection to the Minister, appeared at the public enquiry.

As regards actual redevelopment of the area for housing, the local authority may be able to arrange with owners to redevelop in conformity with the plan. But, if the authority are unable so to do, they must within six months of the approval of the plan, or such longer time as the Minister allows, purchase the land by agreement or make and submit a Compulsory Purchase Order.

So far as the plan provides for redevelopment of the area for purposes other than housing, arrangements may similarly be made with owners to redevelop or to continue an existing use in conformity with the plan. Otherwise the land must be purchased by agreement or a Compulsory Purchase Order submitted within two years of the approval of the plan or such longer time as the Minister allows. Land outside the area can also be purchased to provide accommodation for persons displaced from the area.

Land purchased by the local authority under the foregoing provisions otherwise than for the provision of working-class houses, may be sold or leased

subject, in the case of land in the Redevelopment Area, to conditions for securing that it shall be redeveloped or used in accordance with the redevelopment plan. An obligation is placed on the local authority by Section 45(2) to secure the provision of rehousing accommodation in advance of the displacements which become necessary as redevelopment proceeds.

140. The two years during which these powers were available prior to the outbreak of war is perhaps too short a time to enable their value to be accurately assessed. It is to be noted, however, that they have not been extensively used and no major schemes of redevelopment have resulted from them. Among the reasons for this apparent failure to produce the desired results the following may be mentioned :—

(i) The Act requires authorities to define the plan of proposed redevelopment in great detail. Where the development may not take place for some time such a detailed plan may be difficult to draw.

(ii) To comply with the statutory definition it is necessary to prove that a required proportion of houses is unfit for human habitation and not capable at reasonable expense of being made fit. This necessitates proof as regards each house and, moreover, renders the whole scheme open to challenge in the High Court on the ground of failure to comply with the terms of the definition, thereby leading to serious delay.

(iii) The system of compensation has hampered the operations of local authorities and doubts have been expressed whether the provisions relating to compensation are as favourable to authorities under redevelopment procedure as under town planning. In any event the authority may be unable to secure agreement with the owner for redeveloping, in which case they are bound to purchase, and, if the land is occupied by industrial buildings or is alleged to have a value for industry, authorities are frequently driven into hard bargains. The cost of a redevelopment scheme which has to be met mainly out of local finances is a factor of the greatest importance particularly in those town areas where values are extremely high.

(iv) The serving of individual notices, lodging of objections and the holding of public local enquiries is a lengthy procedure designed to safeguard the rights of individual owners but it inevitably results in serious delay.

141. The experience available of the operations of the redevelopment procedure, although limited, does not, therefore, inspire confidence that it would provide a satisfactory basis for urgent measures of reconstruction or that it could be readily adapted for the purpose.

Clearance Areas

142. The Clearance Area procedure in Sections 25–33 and the Third Schedule of the Housing Act, 1936, is limited to the abolition of slums and is not therefore appropriate to be used for general redevelopment purposes.

(4) POOLING SCHEMES AS A METHOD OF REDEVELOPMENT

143. In the course of our enquiry we have received numerous suggestions for a solution of the developed land problem along lines of amalgamation of ownerships. Some advocate compulsory and permanent pooling by forming all owners within the area into a Corporation in which they become shareholders, and leaving the Corporation to replan and redevelop the area. We have already discussed proposals of this type in paragraphs 40 to 45 and given our reasons for rejecting them. Other suggestions include the temporary pooling of ownerships in a given area in the hands of the Local Authority, a Finance Corporation or

some other single body, to be followed, after the area has been replanned and a deduction made for roads, etc., by a redistribution among the original owners of plots of suitable shape and size for development. Schemes of this type are variants of the *Lex Adickes** under which pooling and redistribution is carried out under the supervision of the Local Administration. This method originated in Germany where it has been widely operated in one form or another from 1902 onwards, but mainly in relation to undeveloped land where a rearrangement of ownership would assist the development of the area. For this purpose it appears to have met with a considerable measure of success, but so far as we are aware it has never been applied to built-up areas, and we are doubtful whether any of the schemes of this type would provide a suitable basis for the highly complex problem of the rebuilding of war-damaged or other areas as part of a co-ordinated plan for the modernisation of cities. The responsible authority would need to take over and demolish the property in the area, presumably paying compensation for the buildings, and then hand back the bare sites to a large number of separate owners, some of whom might have neither the desire nor the capital to rebuild. The division into a fixed number of sites might be prejudicial to proper replanning, and in any event it would not provide a permanent solution to the problem which small-scale ownership creates.

(5) RECOMMENDATIONS

144. The conclusion we have reached is that the simplest and only effective method for achieving the desired results is to confer on the planning authority compulsory powers of purchase, much wider and more simple in operation than under existing legislation, over any land which may be required for planning or other public purposes. The purposes for which we recommend powers of purchase should be conferred are :—

(a) *War-Damaged and other Reconstruction Areas*

145. For the urgent task of reconstructing war-damaged areas and the almost equally urgent task of securing the redevelopment of obsolete and unsatisfactory areas such as those to which we have referred in paragraph 134, it is essential to invest the planning authority with the power to cut through the tangle of separate ownerships and boundary lines and make the whole of the land in the area immediately available for comprehensive replanning as a single unit. **We therefore recommend that for the purpose of securing necessary redevelopment the planning authority should be given the power to purchase the whole of such areas.** We consider in our next Chapter the method by which this power should be conferred and the question of providing a simple and expeditious procedure.

Although in paragraph 34 of our Interim Report† we framed a definition of the areas which we considered should be covered by our recommendations designed to prevent development prejudicial to reconstruction, we feel it is undesirable to frame a definition for the purposes now under consideration. The heavily war-damaged areas will clearly fall within this proposal, but so far as other redevelopment is concerned the degree of obsolescence for which these powers will need to be invoked will vary with the circumstances of particular towns and cities and with the rate at which their modernisation proceeds. The selection of areas must, in our view, be left to the discretion of the local planning authority, to be determined solely by reference to planning requirements, under central guidance and control. In the present Report we

* The *Lex Adickes* is described in detail in paras. 257–261 of the Barlow Report and in Appendix 2 to the First Report of the Greater London Regional Planning Committee 1929.

† Cmd. 6291. See also para. 136 above.

refer to these areas as "Reconstruction Areas", and we intend that term to include any area which ought in the opinion of the competent planning authority to be scheduled for redevelopment as a whole.

146. We have considered whether, in arranging for development in a Reconstruction Area, dispossessed owners ought to be given preferential treatment in regard to the selection of sites, and have reached the conclusion that to impose on planning authorities a binding condition such as this might seriously handicap them in their freedom to replan or to exclude non-conforming uses. The matter of meeting dispossessed owners is really one of good administration. **We accordingly recommend that no legal right to preferential treatment should be conferred on dispossessed owners of land in a Reconstruction Area, but that, as a matter of administration, in the disposing of land regard should be paid to the claims of the dispossessed owner who wishes to secure a site in the Reconstruction Area.**

147. It may be possible for much of the work of rebuilding in the replanned area to be carried out by private enterprise and land should be made available to developers for approved development in accordance with the plan. In our view it is essential to secure that the land should not again be divided up among owners of small freeholds. **We recommend, therefore, that once any interest in land has passed into public ownership it should be disposed of by way of lease only and not by way of sale, and that the authority should have the power to impose such covenants in the lease as planning requirements make desirable, breach of such covenants to be enforceable by re-entry.**

Although this recommendation is made primarily in connection with Reconstruction Areas, we intend it to be of general application to any interest in land disposed of by a public authority.

(b) Purchase for Acceleration of Planning

148. The question arises what powers of purchase planning authorities should have in relation to areas other than those requiring comprehensive reconstruction for which we have recommended special powers of acquisition in paragraph 145 above. The existing powers conferred on planning authorities by Section 25 of the Town and Country Planning Act, 1932, enable land required for the purposes of the scheme to be acquired compulsorily, failing agreement, only after the scheme is in operation. As to this, **we recommend that a power of compulsory acquisition should also be available before the scheme is in operation, provided Ministerial sanction of the proposed purchase is obtained.**

149. In some areas where development or redevelopment in accordance with a planning scheme will not be carried out by owners in the near future, or at all, the planning authority should be authorised to acquire such land with a view to its disposition in favour of some person who will undertake the work. **We therefore recommend that, where land is held up from development or redevelopment in accordance with the scheme, the authority should have power to acquire the land compulsorily with a view to enabling developers to carry out the desired work.**

150. It may be that the necessary development or redevelopment is one upon which private enterprise is unwilling to engage. **We therefore recommend that the authority should have compulsory powers to purchase land for positive development or redevelopment by the authority themselves, but only where this is essential to accelerate the carrying out of the planning scheme.**

(c) *Purchase in Advance of Requirements*

151. By the Local Government Act, 1933, Section 158, and the London Government Act, 1939, Section 98, Parliament gave to local authorities, subject to the consent of the appropriate Minister, power to acquire land *by agreement* for the purpose of any of their powers and duties in advance of requirements, following in this regard the precedent to be found in the Housing Act, 1925, the Allotments Act, 1925, and in many local Acts. So far as we can trace the matter, the only instances of a power to acquire land *compulsorily* in advance of requirements are to be found in the Allotments Act, 1925, and in the Housing Act, 1936, which authorises the authority, with the consent of the Minister, to acquire land for the provision of working-class houses compulsorily if it will be required for that purpose within ten years.

There can be little doubt but that the power to purchase in advance of requirements is a valuable one from the point of view both of economy and convenience. Its convenience lies in the fact that the necessity for formulating proposals in detail is avoided. *

There are undoubtedly many properties which by reason of war damage have become suitable subjects for improvement proposals and also many cases where, though schemes under the Town and Country Planning Act, 1932, or schemes for the clearance and redevelopment of areas under the Housing Act, 1936, cannot be prepared with the necessary detail, it is clear that particular land will be required for the purpose of those schemes. In our opinion there is no reason why local authorities should not be empowered, subject to the consent of the appropriate Government Department, to acquire land in advance of requirements compulsorily as well as by agreement. We recommend therefore that this power should be granted to them, and that the power should not be subject to a qualification that the land is expected to be required for a defined purpose within a specified period of time.

(d) *Purchase for Re-instatement*

152. Section 25 of the Town and Country Planning Act, 1932, permits planning authorities to acquire land by agreement for the purpose of providing accommodation for persons whose premises have been purchased by the authorities for the purposes of the scheme, but precludes them from acquiring such land compulsorily. We are of opinion that the acquiring authority should be given every facility for offering alternative sites in such cases, and we therefore recommend that, under this and other relevant Acts,* there should be vested in the authorities compulsory powers of purchase of land, whether within or outside their area, for the purpose of the provision of alternative accommodation for displaced persons, but this power should not be exerciseable outside their area except with the consent of the appropriate Government Department.

(e) *Purchase for Recoupment*

153. The question whether local authorities should have power to purchase land for the purpose of securing any enhancement of value accruing thereto as a result of reconstruction, re-planning or public improvements is a betterment problem which is considered at length in Chapter IX, and paragraph 283 of that Chapter contains our recommendation that such power should be granted.

(f) *Adjustment of Boundaries*

154. Cases sometimes arise where the interests of good planning require an adjustment, as between different properties, of boundaries or easements. In

* Under Section 36 of the Housing Act, 1936, local authorities have power, subject to the Minister's approval, to buy, by agreement or compulsorily, land inside or outside a "redevelopment area" for the purpose of accommodating persons displaced from premises purchased by the authority within that area.

such cases it is usually found practicable to effect the necessary adjustment by negotiation, but, in order that suitable powers should be available to enforce the matter where necessary, we recommend that the local planning authority should be granted powers of compulsory purchase of any interest in or right over land for the purpose of making such adjustments in respect of boundaries and easements, including rights of light.

(6) FINANCE

155. In recommending that these additional powers be conferred on local authorities our aim is to facilitate the operation of planning and reconstruction by providing a ready means of acquiring the land necessary for the purposes in view. It is true that the existing provisions are inadequate and the procedure complicated, but effective planning has been held up largely for financial reasons. A mere addition to the powers, or an improvement of the procedure, will be futile unless the financial difficulty is faced and dealt with. The objective should, in our view, be to provide full scope for the preparation of the best plan that can be devised. Planning and the cost of making the land available for planning must be treated, as indeed they are, as separate and distinct questions.

156. In the case of undeveloped land our recommendations in Chapter IV achieve this, but the point still remains open as regards land in towns. Under existing legislation the cost of planning falls on the local authority, although Government grants are available for certain purposes. It lies outside our terms of reference to consider to what extent the cost of post-war reconstruction and modernisation inside towns should fall on local resources or the extent, if any, to which they should be borne by national funds, but clearly the question is one which calls for immediate consideration.

CHAPTER VI

PROCEDURE FOR OBTAINING AND EXERCISING COMPULSORY POWERS OF ACQUISITION

(1) INTRODUCTORY

157. Having made our suggestions for extending the powers for the acquisition of land in developed areas for public purposes, we propose in the present Chapter to make certain recommendations in regard to the procedure attendant upon the obtaining and exercise of compulsory powers.

158. We have had a considerable body of evidence in regard to procedure from which we are left in no doubt that, by reason of the formalities to be followed and the steps to be taken, under the law as it now stands, in obtaining powers and in their exercise and in getting entry or possession, time is wasted and serious delay is commonly experienced.

The matter was considered by the Scott Committee from whose First Report we quote the following passage* :—

“The need of establishing some simpler, more uniform, less costly, and more expeditious system for the compulsory acquisition of land for any purposes of national importance appears, therefore, to be imperative. We do not find that similar difficulties (particularly as regards delay in

* Cd. 8998, para. 9.

obtaining possession of land required for public purposes) survive today in other English-speaking communities. In America the application of the principle of 'eminent domain' enables possession of land for any purpose of public importance to be obtained as a rule within a few weeks. In the great self-governing colonies of Australia and Canada, land can generally be resumed for public purposes by a simple system of Gazette notification, whereupon the land vests in the Crown, the owner's interest being converted automatically into a claim for compensation. In the more important Australian Colonies a series of Acts have been passed since the beginning of this century extending this system to the acquisition of land for practically every kind of public purpose in place of the procedure under the Lands Clauses Acts, which were previously incorporated in all local statutes.

"Indeed, on examination of the comparatively small number of statutes passed* for such ends in our own country during the earlier years of the last century (i.e. during the period immediately following the Napoleonic wars and extending into that of the great railway development) it appears that the Parliaments of those days were ready to approve a procedure for the acquisition of land by public authorities far more simple, drastic and expeditious than that of the Lands Clauses Act, 1845. The latter procedure was doubtless largely influenced by the fact that the Lands Clauses Acts were originally designed to authorise the taking of land for purposes of a public nature (chiefly the construction of railways) which it was expected would return a profit to associations of private persons."

We adopt this passage. A simpler and quicker procedure is no less necessary now than in 1919.

159. In making our recommendations we have borne in mind that under the terms of our reference we are only concerned with procedure so far as it bears upon the questions of cost of or prejudice to post-war reconstruction. We do not propose to deal with the many matters of detail, outside the terms of our reference, which have been submitted to us, or with the general question of the powers and procedure for compulsory acquisition of land for various public purposes. Our recommendations should be read as directed to the powers sought to be obtained and exercised in relation to the needs of post-war reconstruction. Our recommendations (particularly the recommendation contained in paragraph 168 below) may be capable of application in relation to powers for other purposes; but that is a general matter with which we are not concerned.

(2) EXISTING PROCEDURE AND RECOMMENDATIONS

(a) *Existing Procedure on obtaining Powers*

160. The present methods of obtaining compulsory powers are Private Act, Provisional Order, confirmed by Act of Parliament, and Ministerial Order.† It lies outside our province to consider the cases in which one method rather than another should be required or to consider the procedure to be

* See Admiralty (Signal Stations) Act, 1815, Metropolitan Paving Act, 1817, Sewers Act, 1833, Highway Act, 1835, Defence Acts, 1842 and 1860, and Customs Consolidation Act, 1853.

† It is not usual for a Public General Act to give Local Authorities power to acquire land compulsorily without first obtaining an Order, Provisional or otherwise, but an exception is to be found in Section 33 of the Public Health Act, 1925, in reference to land not occupied by buildings between an improvement line and the line of a street. Another exceptional procedure is by Special Order which only applies to compulsory acquisition for the purposes of the Electricity (Supply) Acts, 1882 to 1933.

followed in obtaining a Private Act. But we desire to make some observations on the procedure required to be followed in obtaining a Provisional Order or a Ministerial Order and on their effect and the method to be pursued in exercising the powers thereby granted.

(i) *Procedure by Provisional Order*

161. The standard procedure* requires (*inter alia*) that before an Order is made (i) there should be published in local newspapers for three consecutive weeks during the latter months of the year a notice describing the land proposed to be taken and the purpose for which it is required; (ii) individual notices should be given to all persons interested in the property (other than tenants for a month or less period) of the intention to seek compulsory powers, specifying the time within which and the manner in which objections may be made; and (iii) (save in exceptional cases) a local public enquiry should be held, a matter which involves the preparation of elaborate data, evidence, and sometimes a multiplicity of plans and cartoons.

It takes considerable time and labour to ascertain all the persons interested in the properties sought to be acquired, for the necessary information is not in the possession of the acquiring authority and cannot be obtained from public records. Further time is taken by the public enquiry, the value of which is any case, in our view, doubtful. The exercise of the right of interested persons to object does not, however, in itself, entail unnecessary delay.

162. After the enquiry has been held it rests with the Minister concerned to take the formal steps then necessary, including the preparation of the Order. The Provisional Order conferring the compulsory powers must incorporate the provisions of the Lands Clauses Acts with certain exceptions and modifications, and also certain provisions of the Railway Clauses Consolidation Act, 1845. The Provisional Order does not take effect until an Act of Parliament has been passed confirming it.

(ii) *Procedure by Ministerial Order*

163. The procedure by Ministerial Order (otherwise known as the "Compulsory Purchase Order" procedure) is the most expeditious of all the methods mentioned in paragraph 160; it differs from the procedure by Provisional Order in that no Act of Parliament is required and that the Order is normally prepared by the acquiring authority. It takes effect on confirmation by the appropriate Minister. In other respects the standard procedure† is for present purposes the same as that described in the preceding paragraph, and the Order must incorporate the same provisions of the Acts of 1845. In addition Section 162‡ of the Local Government Act, 1933, provides a means of testing the validity of a Compulsory Purchase Order made in accordance with the standard procedure by application to the High Court.

(b) *Existing Procedure after Powers have been obtained*

164. The procedure for exercising the powers obtained by either of the methods above described is the same, and, by reason of the incorporation in the Orders of the provisions of the Lands Clauses Acts, is generally governed by those Acts. The result is, *first*, to require service of a notice to treat on

* See Local Government Act, 1933, Section 160, and Local Government (Compulsory Purchase) Regulations, 1934, S.R. & O. 1934, No. 363. This Act does not apply to Scotland. As to London, see London Government Act, 1939, Section 101.

† See Local Government Act, 1933, Section 161, and Local Government (Compulsory Purchase) Regulations, 1934. This Act does not apply to Scotland. As to London, see London Government Act, 1939, Section 102. See also Town and Country Planning Act, 1932, Third Schedule, Part I; Housing Act, 1936, First Schedule.

‡ Section 103 of the London Government Act, 1939, is similar.

every person (other than tenants from year to year or for shorter terms) having any interest in the land in question, whether or not the acquiring authority desires to acquire every such interest, and, *second*, that the land and the several interests therein remain vested in the existing owners until all matters of title and compensation have been disposed of and the property conveyed. The acquiring authority is, by Sections 84 *et seq.* of the Lands Clauses Consolidation Act, 1845, incorporated in the Order, expressly prohibited from entering on the land, save for purposes of survey, unless they have obtained the consent of the owners and occupiers* or have paid the purchase moneys or compensation to the respective parties interested or have deposited the sums claimed (or, in certain cases, estimated by a surveyor appointed by two justices) in the Bank of England and given to the owners a penal bond to secure payment.†

(c) *Objections to Existing Procedure*

165. The objections to this procedure are, *first*, the delay incident to the necessity (i) of ascertaining and giving notices to all owners and persons having interests of the intention to secure powers, and (ii) of holding public inquiries; *second*, delay entailed by the procedure under notice to treat, coupled with the formalities required when quick entry is desired.

166. As regards the first objection, the question of principle to be considered is whether, taking into account the purpose for which the powers are required, individual notices‡ ought to be served or a public enquiry held. Notice to the individual is directed only to enabling him, if so advised, to raise objections to the grant of powers. The point of a public enquiry is to inform the mind of the Minister in regard to local opinion generally. The former object could generally be well enough secured by local advertisement. As regards the latter, it may be doubted whether a local enquiry reveals anything of value to the Minister. However this may be, neither individual notices nor public enquiry appear to be called for where Reconstruction Areas§ are under consideration. The question whether the reconstruction proposed should go through is not one in which the views of individual owners are of primary concern, and the same consideration will apply to other classes of case where compulsory powers are sought. We do not propose to frame a catalogue of cases where there should not be individual notices or public enquiries, but we think that the proper basis on which to approach the matter is to give to the Central Planning Authority or appropriate Minister|| a discretion.

We accordingly recommend (i) that there should be no public enquiry in any case unless the Central Planning Authority or the appropriate Minister|| should, having regard to all the circumstances, think it desirable; (ii) that a similar rule should apply in regard to the service of individual notices; and (iii) that,

* In the case of tenancies from year to year or less interests there is power under Section 121 of the Act of 1845 to determine the tenancies before completion, subject to payment of compensation for the unexpired term and any other loss, *e.g.*, costs of removal.

† These provisions will apply in all cases in the absence of special provisions to the contrary. Special powers of entry are contained in a few General Acts for the purposes of those Acts—see Restriction of Ribbon Development Act, 1935, Section 13 (5); and Housing Act, 1936, Section 145. The Public Works Facilities Act, 1930, substantially enlarged the purposes for which special powers of entry are available, but this Act is a temporary one only.

‡ The Town Planning procedure under which owners may register for the purpose of receiving notices is an improvement. See Town and Country Planning Act, 1932, Section 7.

§ See Chapter V, para. 145, above

|| Until the composition and functions of the Central Planning Authority have been defined it is not possible to indicate the circumstances in which the discretion suggested would be exercised by this Authority.

in cases where individual notices are to be served, workable rules should be laid down for determining the persons on whom the notices should be served and the method of service, the rules to be such as may reasonably be expected to bring the proposed acquisition to the attention of persons affected.

167. As regards the second objection (viz., delay incurred after the power of acquisition has been secured), we suggest in the following paragraphs an alternative method of procedure, designed to eliminate all such delay, which might be followed in cases of Reconstruction Areas* and in other cases where considerable areas of land are being acquired; and as regards those cases where this alternative method is not applicable we suggest certain improvements to the existing methods of procedure at a later stage in this Chapter.†

(d) Suggested New Procedure

168. We recommend the adoption of the following procedure in the case of Reconstruction Areas (see Chapter V, paragraph 145), and in the case of such other areas as the Central Planning Authority or the appropriate Minister‡ shall determine to be proper :—

(a) The acquiring authority seeking to obtain compulsory powers should lodge with the Central Planning Authority or the appropriate Minister a Map ("the Acquisition Map,") showing the area sought to be acquired.

(b) Notice of the lodging of the Map with appropriate particulars should be advertised locally, but no separate notices at this stage should be given to the owners or occupiers of the properties affected.

(c) There should not in the normal case be any public enquiry, but we can imagine exceptional cases in which it might be desirable that there should be a public enquiry before the Order is made. It should therefore lie in the discretion of the Minister to hold a public enquiry where in his opinion circumstances demand it. The holding of a public enquiry should be the exception, not the rule.

(d) On the Central Planning Authority or the Minister approving the Acquisition Map, notice of the approval and of the effect of the Order approving it should be given to persons having interests in the properties affected by public advertisement and by separate service so far as can be done from information in the possession of the acquiring authority, and where necessary by posting notices on the sites.

Persons receiving notice should be placed under a duty to pass on the effect of the notice to any other persons who are, to their knowledge, interested in the properties affected.§

169. The effect of the Order approving the Acquisition Map should, put broadly, be that the fee simple absolute in the various properties should by reason of the Order, if the Order so provides, or, in other cases, by due notice given by the acquiring authority pursuant to some provision in the Order, vest in the acquiring authority as at the date specified in the Order or at the date specified in the notice, as the case may be. A certain amount of elasticity

* See Chapter V, para. 145, above.

† See paras. 174 *et seq.* below.

‡ Until the composition and functions of the Central Planning Authority have been defined it is not possible to indicate the circumstances in which the discretion suggested would be exercised by this Authority.

§ Cf. the provisions in Finance (1909-10) Act, 1910, Section 31, and Landlord and Tenant (War Damage) Act, 1939, Section 26 (3) (b). See, generally, as to notices, para. 174 below.

is necessary to meet the case that the acquiring authority may not wish to acquire possession of the whole area included in the Map at the one time, or may not wish to acquire some particular interest (e.g. a short leasehold interest) subsisting in some particular property.

170. The acquiring authority would not under this procedure be required to serve notices to treat.

Each person claiming an interest in the lands should be required to submit within a limited time, on a form to be made available to him, a statement showing the nature of the interest claimed by him, particulars of his title and title deeds and such information as is in his possession as to the interests of other persons in the property.

We suggest that the submission of statements within a limited time should be compulsory with a view to easing the investigation of titles and to securing that all interests in the same property may, so far as practicable, be dealt with at the same time. Failure to send in the statement in due time without good excuse should, in the event of an arbitration on the amount of compensation payable, give the arbitrator jurisdiction to deprive the peccant claimant of the whole or any part of his own costs in the arbitration.

171. Compensation would be determined in the ordinary way either by agreement or by arbitration.

172. In order to record the change of title the acquiring authority, after having satisfied the conditions upon performance of which the property vests in them, should execute a statutory declaration which should be made conclusive evidence that the conditions have been performed. The appropriate stamp duty payable on a conveyance on sale of the property should, as and when the compensation is ascertained, be impressed on this statutory declaration.*

173. The advantage of the procedure recommended in the preceding paragraphs is that the legal matters involved are put on one side for separate treatment, and the acquiring authority are free to get on with their work without being hampered by the delays incident to the ascertainment of the persons interested, the examination of their title, and the assessment of the compensation payable to them. Before entry there should be made all proper records relating to the type and condition of the property. This would assist the acquiring authority in making their estimate of the total cost of acquisition.

(e) Modification of Existing Procedure upon Acquisition

(i) Service of Notice to Treat only on Persons whose Interests are required to be taken

174. Under the present law notice to treat must be given to all persons interested in the property other than tenants for a year or from year to year or for a less interest, and a time limit within which all notices to treat must be served is usually prescribed. In the case of a property let for a period more than a year, however short, therefore, the acquiring authority, in addition to purchasing the freehold, are compelled to purchase the tenant's interest and pay compensation for trade disturbance even though the authority have no need for immediate possession.

The point is one of some importance financially, and becomes of greater importance if an acquiring authority are given (as we have recommended in Chapter V) power compulsorily to acquire land in advance of requirements.

With a view therefore to avoiding the payment of unnecessary compensation, we recommend that the acquiring authority should be allowed to serve notices to treat only in respect of such interests as they may desire to acquire.

* Cf. Finance Act, 1895, Section 12.

We would add that the view of the Scott Committee on the matter was the same as that expressed above, though their recommendations assumed a somewhat different form (*see* paragraph 16 of their Second Report*).

(ii) *Statement of Claim following Notice to Treat*

175. There is no provision in the usual forms of Order requiring that any person upon whom a notice to treat has been served should submit to the acquiring authority within any specified limit of time a statement of the nature of his interest or of the amount of his claim.† Failure so to do is a frequent cause of delay, and sometimes amounts to obstruction.

We recommend that it be made obligatory upon any person served with a notice to treat to submit to the acquiring authority a statement of the nature of his interest within 21 days of the service upon him of the notice to treat, and that failure to send in the statement in due time without good excuse should, in the event of an arbitration on the amount of the compensation payable, give the arbitrator jurisdiction to deprive the peccant claimant of the whole or any part of his own costs in the arbitration.

(iii) *Power of Entry on Land*

176. In our view there is no justification for retaining the incorporation in Orders of the provisions of the Lands Clauses Acts‡ in relation to entry on the land to be acquired to which we have referred in paragraph 164 above. We think that provisions on the lines of those contained in the Housing Act, 1936§, should be made of general application.

We accordingly recommend that, where notice to treat has been served in respect of any land, the acquiring authority shall, subject to having given 14 days notice of their intention in that behalf to the person or persons in possession of the land, be entitled to enter upon the land at a date specified in the notice, and that, whether entry is made at the date specified in the notice or not, interest on the compensation for all interests in the land entered shall be paid from the date of intended entry up to the date of completion, and all apportionments made on that footing.

(iv) *Power to serve Notices to Quit*

177. In the case of tenancies from year to year or shorter terms an acquiring authority are not bound to serve notices to treat||, but, apart from the power under Section 121 of the Lands Clauses Consolidation Act, 1845, presently mentioned, they are unable to serve notices to quit on the tenants until the conveyance of the superior interest has been completed. Another year may thus elapse before they obtain possession unless, in order to secure quick entry, they serve notice to treat on the tenant or proceed under Section 121 of the Act of 1845. In the latter case the authority have not only to compensate for the value of the unexpired term but also to pay the tenant's costs of removal and other such incidental expenses. If our suggestion in paragraph 174 above is adopted and the authority are not bound to serve notices to treat on any persons whose interests they do not wish immediately to acquire, a similar position may arise in the case of tenancies of more than a year. It is only right that the tenant should receive the proper notice provided in his agreement and,

* Cd. 9229.

† The effect of Section 5 (1) and (2) of the Acquisition of Land (Assessment of Compensation) Act, 1919, is that if a claimant delays unreasonably in submitting his claim he may be mulcted in costs.

‡ Sections 84 to 91 inclusive, Lands Clauses Consolidation Act, 1845.

§ *See* second footnote to para. 164 above.

|| *See Syers v. Metropolitan Board of Works* (1877), 36 L.T. 277.

if required to give up possession without such notice, that he should be compensated for actual loss; but the defect of the existing procedure is that the period required for notice to quit to the tenant and the period of negotiation and completion with the lessor run consecutively and not concurrently. The result is either delay in commencing public works or additional expense.

To remedy this position we recommend that the acquiring authority should, at any time after notice to treat has been given by them to a reversioner on any lease or tenancy, be entitled to give any notice to determine the lease or tenancy which the reversioner might lawfully have given. The existence or exercise of this power should not affect the compensation payable to the reversioner, which should be assessed on the footing that the authority had no such power. On the other hand the acquiring authority would be liable to pay any sum (for example, under the provisions of the Landlord and Tenant Act, 1927) for which the reversioner would have been liable on the giving by him of a notice to quit.

(v) *Acquisition of Part only of Property*

178. Section 92 of the Lands Clauses Consolidation Act, 1845, provides that no party shall at any time be required to sell or convey to the promoters a part only of any house or other building or manufactory or of a park or garden, if such party be willing and able to sell and convey the whole thereof.

Many Special Acts* contain provisions enabling the acquiring local authority to take part only of properties, notwithstanding Section 92. Further, Section 92 is expressly excluded by the Local Government Act, 1933, and the London Government Act, 1939, from Provisional and Ministerial Orders, and by a number of General Acts† from Ministerial Orders made thereunder, and a substituted provision is directed to be included which authorises the authority to take part only of any land or premises where the part taken can be severed without "material detriment" to the remainder. If material detriment is established, then the authority, if they desire to proceed, must take the whole. The provision contained in the Sixth Schedule to the Local Government Act, 1933, which is part of the standard forms of Order above mentioned, is set out in the footnote.‡

The Scott Committee on the evidence before them came to the conclusion that the acquiring authority should have power to take part only of a property whenever they thought fit. In the view of that Committee the owner was adequately protected by his right to compensation for injurious affection which includes damage suffered by his remaining property by reason of severance.§ We agree with that conclusion and the reason given for it. We add that the test of "material detriment" is by no means easy to apply and the "material

* See, e.g., London County Council (General Powers) Act, 1939, Section 8.

† See, e.g., Development and Road Improvement Funds Act, 1909 (Schedule, para. (4)), Public Works Facilities Act, 1930 (First Schedule, Part II, para. 2 (a)); Town and Country Planning Act, 1932 (Third Schedule, Part I, para. 3 (ii)); Housing Act, 1936 (First Schedule, para. 8).

‡ "No person shall be required to sell a part only of any house, building or manufactory, or of any land which forms part of a park or garden belonging to a house, if he is willing and able to sell the whole of the house, building, manufactory, park or garden, unless the tribunal by whom compensation is to be assessed determine that, in the case of a house, building or manufactory, such part as is proposed to be taken can be taken without material detriment to the house, building or manufactory, or, in the case of a park or garden, that such part as aforesaid can be taken without seriously affecting the amenity or convenience of the house, and, if the tribunal so determine, compensation shall be awarded in respect of the severance of the part so proposed to be taken in addition to the value of that part, and thereupon the person interested shall be required to sell to the local authority that part of the house, building, manufactory, park or garden."

§ Second Report, Cd. 9229, para. 18.

detriment" clause is frequently a cause of delay. In our opinion it should be within the competence of the acquiring authority in all cases to take the whole or part of any premises as they may think fit.

We accordingly recommend that the acquiring authority should in all cases have power to take part of any property where they think fit, upon payment of proper compensation therefor (including compensation for injurious affection by severance, disturbance or otherwise) ; but that, where, in the authority's view, the claim for compensation would be such that it would be cheaper to acquire the whole or any part of the premises the authority should be empowered to do so.

(vi) *Acquisition from Persons under Disability*

179. Sections 69 to 80 (inclusive) of the Lands Clauses Consolidation Act, 1845, which are incorporated in Provisional and Ministerial Orders, provide (*inter alia*) that any purchase money or compensation for injurious affection (amounting to not less than £200) payable to a person or body under a disability must be paid into Court, and the costs of subsequent dealings with the money up to and including permanent re-investment in land are in substance thrown upon the acquiring authority. The result is to impose an appreciable burden of expense upon the authority over which they have little or no control.

The matter was considered by the Scott Committee who in their Second Report* recommended, first, that where there are persons or a body capable of receiving purchase money as trustees for the vendors, the vendors should not be considered as persons under a disability, and, secondly, that, where the claimant can prove special expense in connection with re-investment, the cost of a single re-investment should be allowed as an item of the claim.

Since the date of the Scott Report the class of person formerly treated as being under a disability for the purposes under consideration has been considerably reduced by the effect of the Law of Property Act, 1925, and the Settled Land Act, 1925. But there still remain a few cases where payment into Court has to be made pursuant to the provisions of the Land Clauses Act.

Under Section 28 of the Universities and College Estates Act, 1925, a University or College from whom land is compulsorily acquired has the option of requiring the purchase money to be paid into Court as provided by the Lands Clauses Acts or to the Minister of Agriculture and Fisheries. The acquiring authority appear in the latter case to be liable for costs of re-investment in the same way as after payment into Court.

We are of opinion that payment to the Minister of Agriculture and Fisheries is more simple and involves less expense than payment into Court ; and it does not seem to us that there is any point in maintaining the alternative of payment into Court.

We also think, with the Scott Committee, that acquiring authorities have a substantial grievance in regard to the costs which they have to bear upon re-investment. It does not seem to us that there is any sufficient justification for putting upon the authority any of these costs.

We, therefore, recommend that acquiring authorities should be relieved in the future of all liability for costs occasioned by a re-investment of moneys paid into Court, or to the Minister of Agriculture and Fisheries, upon acquisition of land from persons under a disability ; and that, in the case of land acquired from a University or College as defined by the Universities and College Estates Act, 1925, any purchase or compensation moneys for which the acquiring authority are unable to obtain a good discharge from trustees or other persons should be paid to the Minister of Agriculture and Fisheries.

* Cd. 9229, para. 17.

(vii) *Necessity to show Failure to acquire by Agreement*

180. In some General Acts the power to acquire any land compulsorily only arises on failure to acquire the land by agreement.* The effect of this condition is not infrequently to cause substantial delay—for example, where the owner of the land elects to take no notice of the offers made to him by the acquiring authority. Alternatively, the authority may pay for the land a somewhat larger sum than they might otherwise think appropriate in order to secure agreement. It does not seem to us that the condition in question serves any useful purpose, and we recommend accordingly that it be generally repealed.

(viii) *Acquisition of Land from Statutory Undertakers*

181. Under Section 179 of the Local Government Act, 1933,† land belonging to statutory undertakers cannot be compulsorily acquired under a Ministerial Order. Though land actually used for the purposes of a statutory undertaking may well stand in a different position from other land, we think that the maintenance of this exception in the wide form it has assumed may prove an obstacle to the speedy acquisition of necessary land by an acquiring authority.‡ We accordingly recommend that this exception be repealed, so that the acquisition of the land of a statutory undertaker can be determined upon by the appropriate Minister in the same way as the land of other owners when the draft Order is being considered by him.

(ix) *Roads*

182. Our attention has been drawn to a number of matters in reference to the acquisition of land for the making or widening of roads which are liable to give rise to serious delay. For the most part these difficulties arise or, as matters stand, are likely to arise either in relation to undeveloped land or in relation to Reconstruction Areas§ or other substantial blocks of land required to be redeveloped in built-up areas. In our view, therefore, the suggestions we have made in Chapters IV and V and the new form of procedure recommended in the present Chapter will provide an effective solution of the difficulties. It is outside our terms of reference to consider the general question of the powers of acquisition of land for road making or road improvement purposes under the existing legislation.||

CHAPTER VII

ASSESSMENT OF COMPENSATION ON ACQUISITION OF LAND AND FOR INJURIOUS AFFECTION

(1) INTRODUCTION

183. In the preceding Chapter we dealt with the procedure for obtaining and exercising compulsory powers of acquisition of land. We turn now to the

* See, e.g., Development and Road Improvement Funds Act, 1909, Sections 5 and 11; Small Holdings and Allotments Act, 1926, Section 4; Restriction of Ribbon Development Act, 1935, Section 13 (1).

† See also London Government Act, 1939, Section 114.

‡ The undertaker will always have access to his own appropriate Minister.

§ See Chapter V, para. 145, above.

|| See particularly Metropolitan Paving Act, 1817; Public Health Act, 1875 (Section 155); Building in Streets Act, 1888; Development and Road Improvement Funds Act, 1909; Public Health Act, 1925 (Section 33); Public Works Facilities Act, 1930; Roads Improvement Act, 1925; Restriction of Ribbon Development Act, 1935; Trunk Roads Act, 1936.

questions of the compensation payable on the acquisition in respect of the purchase and in respect of injurious affection.

The tribunal which assesses the compensation is that established by the Acquisition of Land (Assessment of Compensation) Act, 1919 (referred to in this Chapter as "the Act of 1919") passed to give effect to the recommendations in the Second Report* of the Scott Committee.

The general rules governing the assessment of compensation for land purchased in cases where land is compulsorily acquired by a Government Department or by a public or local authority are now to be found in Section 2 of the Act of 1919. Certain modifications of these rules are commonly included in General Acts† authorising the public acquisition of land, and some Acts, such as the Housing Act, 1936 (Section 40), lay down special rules applicable to particular cases.

The ascertainment of compensation for injurious affection resulting from the exercise of statutory powers of acquisition is in general governed by the Lands Clauses Consolidation Act, 1845, and decisions of the Courts thereunder. Special rules are, however, to be found in some General Acts, e.g., the Town and Country Planning Act, 1932 (Sections 18 *et seq.*), and the Restriction of Ribbon Development Act, 1935 (Section 9).‡

(2) ASSESSMENT OF COMPENSATION FOR LAND PURCHASED

(a) *Rules under the Act of 1919 and suggested Modifications*

184. The rules for assessing compensation on the acquisition of land are tabulated in Section 2 of the Act of 1919.

We propose to consider these rules in turn and make our observations and suggestions in regard to them.

185. *Rule (1)*

"No allowance shall be made on account of the acquisition being compulsory."

We do not recommend any amendment of this Rule.

Rule (2)

"The value of land shall, subject as hereinafter provided,§ be taken to be the amount which the land if sold in the open market by a willing seller might be expected to realise: Provided always that the arbitrator shall be entitled to consider all returns and assessments of capital value for taxation made or acquiesced in by the claimant."

The main criticisms made against the substantive part of Rule (2) are that it does not import a "willing buyer" or "the normal condition of an open market". In our opinion this criticism is unfounded. Both conditions are in our opinion implied in the Rule.

It has been suggested that no account should be taken of possible developments, unless the arbitrator is satisfied that the developments are immediately possible and that there is a demand for such developments. As matters stand an arbitrator takes all possibilities into account but he is bound to take a business-like point of view of the situation. We see no reason for altering the Rule.||

* Cd. 9229.

† See, e.g., Town and Country Planning Act, 1932, Third Schedule, Part I, para. 3.

‡ As to compensation for injurious affection under these Acts, see Chapter VIII.

§ The reference is to the later Rules.

|| In regard to the effect on value of the prospects of national planning, see para. 188 below.

For the same reason we have rejected suggestions that, in assessing compensation, regard should be paid only to the use to which the land was being put at the date of notice to treat.*

We do not therefore suggest any alteration of the substantive part of this Rule.

186. The proviso to the Rule arose out of the widespread feeling of dissatisfaction at the discrepancy in favour of owners between the value placed on their land when compulsorily acquired and the value by reference to which the same land had been assessed for taxation. Though it was recognised that the assessment of compensation on acquisition could not be certainly based on such assessments (partly because the circumstances might have changed since they were made, and partly because there might be two or more assessments at different dates and on different values), it was nevertheless felt necessary to give some indication to the arbitrator that the values for taxation purposes made or acquiesced in by the claimant were to be regarded as relevant, and that, so far as circumstances admitted, valuations for the two purposes should be consistent.

The proviso as it stands only covers returns and assessments of capital value, and of capital value only for taxation. The only capital values of importance at the present time falling within the proviso appear to be valuations for the purposes of Death Duties and for Stamp Duty on voluntary dispositions *inter vivos*. Capital valuations of sites are being inserted in claims and determined under the War Damage Act, 1941, but their purpose is not taxation, and therefore they do not fall within the existing terms of the proviso. Assessments of annual value are not covered by the proviso at all. They are indeed often not a true guide to capital value because they are based on existing user and do not take account of the potentialities of the land. Further, there is some lack of uniformity in the basis of assessment adopted by different authorities. But, conceding this, the annual value of a property for its existing use is nevertheless an important fact to be taken into account in making a valuation.

In our view it would not be just, as has been suggested to us in evidence, to require the arbitrator to adopt the returns and assessments for taxation and other purposes as the basis of his valuation. Even in the case of the assessment of site value made for the purposes of claims under the War Damage Act, 1941, the weight to be attached to the figures involved will depend upon the circumstances in which the claim was made and the circumstances in which the final amount was arrived at.

We are, however, of opinion that all returns and assessments, whether they relate to capital value or annual value, and whether or not they have been made or acquiesced in by the claimant, should be made available for the consideration of the arbitrator. In all cases they furnish a guide to what the persons or authorities concerned with the property thought, or must be taken to have thought, to be the value of the property having regard to the circumstances at the time when they were made. Valuation is very much a matter of estimating the views of the unknown minds of possible purchasers: the known views expressed arithmetically of those having had connection with the property should therefore not be ruled out of consideration.

It is a further question how far the arbitrator should by the Rules be directed in terms to take these returns, assessments, etc., into consideration. We are of opinion that he should be bound to take into account site and all other values claimed and allowed, together with all relevant issues affecting

* See also para. 192]below.

the matter, under the War Damage Act, 1941. For the rest, we think it sufficient to empower the arbitrator to take all other returns and assessments into consideration. The good sense of the arbitrator will guide him alike on the relevance of, and on the weight to be attributed to, the returns and assessments.

We, therefore, recommend that for the existing proviso to the Rule a new provision should be substituted to the effect that the arbitrator should be bound to consider, in the light of the surrounding circumstances, site and all other values claimed and allowed under the War Damage Act, 1941 : and that he should be entitled to require and consider all returns and assessments of capital value and annual value for taxation (including licence duty in the case of licensed premises) and rating (including drainage rates).

The new provision should make it clear that, although the information obtained from returns, assessments, etc., in the case of those connected with the War Damage Act, 1941, must be taken into consideration, and in other cases may be taken into consideration, they are not necessarily to be the basis on which the award is made. They are to be treated as relevant facts, not conclusive tests.

187. *Rule (3).*

"The special suitability or adaptability of the land for any purpose shall not be taken into account if that purpose is a purpose to which it could be applied only in pursuance of statutory powers, or for which there is no market apart from the special needs of a particular purchaser or the requirements of any Government Department or any local or public authority : Provided that any *bona fide* offer for the purchase of the land made before the passing of this Act which may be brought to the notice of the arbitrator shall be taken into consideration."

This rule is in our opinion unsatisfactory.

Special adaptability of land means the existence of certain advantages, present or future, whereby the land in question has a special value in a particular limited market (per Fletcher Moulton L. J., *In re Lucas and Chesterfield Gas and Water Board*, [1909] 1 K.B. 16, at page 31). Under the Rule that element of value is ruled out where the purpose giving rise to the special value is either :—

(i) a purpose to which the land could be applied only in pursuance of statutory powers ; or

(ii) a purpose for which there is no market apart from the needs of a particular purchaser or the requirements of any Government Department or any local or public authority.

Cases falling within the first limb of the Rule are extremely rare. Land can be applied to any purpose except in so far as its use is restricted by Act of Parliament or the common law rules as to nuisance and the like. For instance, land can be used for waterworks for public supply without statutory powers, though commercially it is not practicable to carry out a waterworks undertaking without statutory powers.

The second limb of the Rule presumably makes inapplicable the basis on which the "*Plymouth*" case was decided.* But it is directed to excluding special adaptability "*for a purpose for which there is no market*" apart from the requirements of public authorities, rather than to excluding enhancement of value by reason of any demand by public authorities, whether or not competitive.

* *Inland Revenue Commissioners v. Clay*, and *Inland Revenue Commissioners v. Buchanan*, [1914] 3 K.B. 466.

Having regard to the passage of time the proviso to the Rule must be regarded as now out of date.

188. Our main criticism of the Rule is that it does not effectively deal with the broad question of principle whether, in determining the compensation payable for land, any increased value or element of value due to the demand for land generally, or for land in the area in which the particular land is situate, by Government Departments, local authorities or statutory undertakers should be ruled out. In considering that question we see no reason for discriminating between Government Departments and local authorities on the one hand and statutory undertakers on the other hand. Undertakings operating under statutory powers must be assumed to be serving a public purpose. Unless they are so doing, there is no justification for their possession of those exceptional privileges which their statutes confer. The demand for land by Government Departments, local authorities and statutory undertakers is accurately and conveniently described as "public demand".

In our opinion any increased value or element of value due to public demand for land should be excluded in assessing the compensation payable on acquisition. If the principle be accepted, inherent in the existence of a power of compulsory acquisition, that private ownership of land carries with it the duty of surrendering land to the community when the needs of the community require it, it seems to us to follow that the demands to satisfy those needs ought not to be a source of private profit. The landowner is left with the value attributable to the demand from all other sources and, being left with that, has not we think any legitimate cause for complaint.

There can in our view be no justification for a continuance of a position whereby landowners receive considerable financial benefit by reason of the demand or the acceleration of demand which arises from public needs and in many cases from public subsidies. We, therefore, recommend that the first limb of Rule (3) should remain, but that there should be substituted for the second limb, words to the effect that no account shall be taken of any increased value or element of value arising from the actual or possible demands for land (by which we mean land generally) of any Government Department, local or public authority or any statutory undertaker.

It follows from what has been said (and it is consistent with general principle) that there should also be excluded any increased value or element of value attributable to the existence of or proposals for any scheme of reconstruction or to the prospects or progress generally of national planning.

Rule (3) will therefore require to be recast on the following lines :—

"The special suitability or adaptability of the land for any purpose shall not be taken into account if that purpose is a purpose to which it could be applied only in pursuance of statutory powers : and no account shall be taken of any increased value or element of value arising from the actual or possible demands for the land or other land by any Government Department, local or public authority, or any statutory undertaker ; or arising from the existence of or proposals for, or the probability or possibility of the land or other land becoming subject to, any public scheme of development, redevelopment or reconstruction (including schemes of preservation from development) or from any works done or to be done or any change of user under any such scheme."

189. *Rule (4)*

"Where the value of land is increased by reason of the use thereof or of any premises thereon in a manner which could be restrained by any court, or is contrary to law, or is detrimental to the health of the inmates of the premises or to the public health, the amount of that increase shall not be taken into account".

It has been suggested to us that the language of this Rule should be expanded so as expressly to refer to overcrowding or to uses which may be dangerous to health. In our view the words of the Rule are sufficiently wide as they stand to cover cases of this kind and we do not think that any amendment or addition is necessary.

190. *Rule (5)*

"Where the land is, and but for the compulsory acquisition would continue to be, devoted to a purpose of such a nature that there is no general demand or market for land for that purpose, the compensation may, if the official arbitrator is satisfied that reinstatement in some other place is *bona fide* intended, be assessed on the basis of the reasonable cost of equivalent reinstatement".

We are in agreement with the principle of this Rule but we are of the opinion that some method should be adopted for minimising the compensation where, for example, better designing might enable satisfactory reinstatement to be effected at less cost than if the building were re-erected in precisely the same style as before. We therefore recommend that in Rule (5) the words "the reasonable cost of equivalent" should be deleted, and that there should be added to the Rule :—

"In fixing the amount of compensation payable on the basis of reinstatement, the arbitrator, in estimating the cost of buildings on another site, shall estimate the cost of buildings such as would be capable of serving an equivalent purpose over the same period of time as the buildings on the land taken would have done, and shall make allowances from the estimated cost for any structural depreciation in the buildings on the land taken."

We also consider that machinery should be provided to ensure that compensation on a reinstatement basis should only be paid where reinstatement is in fact carried out and not merely where reinstatement is *bona fide* intended at the date of the arbitration award. We therefore recommend that, where compensation is awarded on the basis of reinstatement, the arbitrator shall have power to direct that the whole or part of the sum awarded shall be held back, and paid, if and when work is done, as he shall determine, or, if necessary (*e.g.*, should he die or retire), as shall be determined by the Secretary to the Reference Committee, who may consult any member of the panel of arbitrators.

191. *Rule (6)*

"The provisions of Rule (2) shall not affect the assessment of compensation for disturbance or any other matter not directly based on the value of land".

This Rule is intended to preserve to the dispossessed owner his right to compensation for severance and other consequential damage arising out of the acquisition of the land. The exact effect of the language used is not, however, clear and has recently been the subject of argument in the Courts in the case of *Horn v. Sunderland Corporation* (57 T.L.R. 404), in which case we understand that an appeal to the House of Lords is pending. The terms of the Rule should, in our opinion, be reconsidered if the House of Lords differ from the Court of Appeal in principle.

(b) *Further Modifications*

192. In addition to the points arising on the six Rules contained in Section 2 of the Act of 1919, there are certain other matters in relation to the assessment of compensation on the acquisition of land to which our attention has been directed. Some of the suggestions made to us were outside our terms of reference : in regard to others we have come to the conclusion that no case was made for alteration of the existing law.

Thus we conceive it to be outside our terms of reference to consider whether compensation payable on acquisition should be in cash, local or other stock, or an annuity over a period of years, and we accordingly do not further discuss the topic, or whether compensation payable in respect of buildings should in any class of case (other than cases of re-instatement*) be required to be applied in the erection of other buildings.

We have also not felt able to recommend the adoption of a "universal" system of valuation (with periodic revaluations) which should be used for all purposes both of taxation and acquisition. Nor have we accepted the suggestion that land should in all cases be valued by reference to conditions as they existed on the date of the local authority's resolution to seek power to acquire the land, or by reference to the user of the land on that date or on the date of the arbitration, whichever might be the lower. Having regard to the length of time which might and not uncommonly does elapse between the date of the resolution and the taking of any steps pursuant thereto, we think such a general rule might produce results which were both artificial and unfair.

193. Another suggestion made to us was that where several interests existed in any piece of land proposed to be acquired, a single valuation should be made, as of an unencumbered fee simple in possession. The existing law requires separate valuations to be placed on each separate interest. In cases where property is held under a lease this may result, as was pointed out by the Scott Committee†, in the total payment for the leasehold and the freehold reversion exceeding the value of the fee simple in possession—by reason of the practice of the property market in adopting a different capitalisation basis for different types of interest. Although this may appear anomalous, it is justified on the grounds that it does follow the practice of the property market and avoids the administrative difficulties of allocating compensation money awarded on a fee simple basis among the owners of the several interests. The provision is not, in itself, a grave defect of the existing law, and is of relatively small importance financially. We do not therefore recommend any amendment‡.

(i) *Pre-war Standard of Values*

194. In our Interim Report we advised that the compensation payable on public acquisition (or control) of land should not exceed sums based on the standard of values at 31st March, 1939, and that this maximum should be adopted for such period, whether or not extending beyond the end of the war, as will be required to enable the long term policy of planning to be determined and any alteration in the present principles governing compensation to be worked out.

We also recommended that no exception should be made to meet the case that either before or after the date of that Report interests in land had been acquired at prices above the March, 1939, value.§

We adhere to these recommendations.

* See under Rule (5) in para. 190 above.

† Second Report, Cd. 9229, para. 15.

‡ The Bill which led to the Acquisition of Land (Assessment of Compensation) Act 1919, contained a provision that the value of the land as a whole should be determined and that it should be left to the arbitrator to apportion the amount among the persons interested. That provision was deleted by the Standing Committee of the House of Commons. The point was debated on the Report Stage and the view taken by the Standing Committee was adopted (see House of Commons Report, 26th June, 1919, cols. 401-406).

§ On the 17th July, 1941, Lord Reith announced the Government's acceptance of the "March, 1939, ceiling", subject to the qualification that the detailed application of the principle required consideration and that the principle must be open to review if circumstances arise which make its application inequitable.

195. It is, we think, desirable for us to state what in our view is involved in the broad principle of the "March 1939 ceiling" and how it should be worked out and the general qualifications to which it should be subject. Various matters have to be considered.

(A) The condition of the property itself may have changed. A 1939 house may have become a ruin: what was open ground in 1939 may now be covered by a factory or a row of houses. Services such as sewerage or roads directly serving the property may have sprung into existence since 1939.

(B) The condition of the surroundings which are relevant in considering the value of the property itself may have changed. For instance, war damage to houses in a built-up area may by lessening the available supply have increased the value of a residence where that is under consideration, or may have decreased the value of business property by depriving it of near-by customers.

(C) There may since 1939 have been changes in the distribution of the population, and there certainly will have been other general economic changes affecting the value of the property. There may have been changes in town planning schemes since 1939 affecting the particular property.

(D) The value of money may have changed.

196. In our view the subject matter to be considered for the purpose of the maximum should be the property as it stands at the date of its acquisition. Similarly, the interests in the property which are to be considered and in respect of which the maximum is to be applied are the interests as they exist at that date.

197. As regards the condition of the relevant surrounding land and general causes affecting values referred to in (B) and (C) in paragraph 195 above, the acceptance of the March, 1939, standard of value as a maximum involves that the relevant surrounding land should be assumed to be in its 1939 condition and that the economic conditions which then prevailed should be assumed to exist.

198. In the ordinary cases—agricultural land, sites in respect of which there has been no capital expenditure upon levelling or upon the provision of roads, drains, sidings or services leading to the site and the like, and pre-war buildings which have not been substantially extended—no difficulty arises in the application of the "ceiling". In cases where since March, 1939, there has been any such capital expenditure in respect of a site covered or uncovered, or where substantial additions to buildings have been made or where new buildings have been put up, it will be necessary to modify the rules and, where buildings come into question, to differentiate between the site and the buildings.

The rules in our view proper to be applied are as follows:—

(a) The "ceiling" as regards the site—covered or uncovered—should in all cases be taken at the March, 1939, standard of value as explained above, with a just addition for the present worth of the capital expenditure referred to above not exceeding the actual amount expended.

(b) The "ceiling" as regards pre-war buildings not substantially extended will be ascertained in the ordinary way.

(c) The "ceiling" as regards new buildings will be ascertained by reference to cost less structural depreciation.*

* No other "ceiling" seems possible as regards new buildings, though we appreciate that, owing to the high cost of construction, it will rarely be operative in their case.

- (d) The "ceiling" as regards pre-war buildings substantially extended will be ascertained as regards the original building in the manner stated in (b), and as to the new building in the manner stated in (c).

199. We apprehend that the control of building operations will continue after the war and that it would be possible to link up with licences to build conditions as to the terms which are to rule in the event of compulsory purchase.

200. We do not propose to make any observations upon modifications of a maximum due to changes in the value of money. We merely recall that our recommendation referred to a standard of value and not to prices and that the matter of the change in the value of money has been the subject of legislative treatment in the War Damage Act, 1941, in connection with the quantification of sums payable under that Act.

201. The adoption of a maximum price for land which is to be applicable where it is being compulsorily acquired for national or public purposes, but is not applicable in any other case, can only be a temporary measure. Its necessity from our point of view will disappear as regards undeveloped land outside built-up areas when the development rights have been vested in the State*. The proper period of its continuance as regards other lands will depend on many considerations other than those which suggested its adoption.† Upon this we need only observe that it would be inconsistent with our scheme for collecting increment on site values‡ that it should continue after that scheme has come into operation, and that the application in practice of a maximum depending on the 1939 standard of values needs the knowledge and experience of persons having a first hand acquaintance with values at that date.¶

(ii) *Effect of War on Possibility of "Marriage" of Plots*

202. In estimating the market value of any individual piece of land, it is legitimate to take into account the possibility of its "marriage" with adjoining land not belonging to the claimant. It has been suggested that any evidence of value involving the "marriage" of one piece of land to land not belonging to the claimant should be ruled out of consideration unless the land not belonging to the claimant was in the market and available for sale with possession before the date of the Act or Order authorising compulsory acquisition. We do not recommend the adoption of this suggestion. The possibility of "marriage" should normally be given such weight as is its due having regard to all the surrounding circumstances.

War damage occurring to land has, however, in some areas increased, and even in certain cases created, the potentiality of "marriage" of plots or of separate interests in the same plot. The latter case need not, we think, be specially dealt with. But although in relation to any particular plot—whether subjected to war damage or not—the possibilities of "marriage" presented by its own condition should be taken into account, we think that, so far as these prospects are increased by the condition of other plots occasioned by war damage, they should be ruled out of account. War damage to a neighbour should not be a source of profit. **We accordingly recommend that, in determining the value of any particular plot, no regard should be paid to possibilities of combination with other plots so far as these possibilities depend on war happenings to such other plots.**

* See Chapter IV.

† See Chapter IX, paras. 308 *et seq.*

(iii) *Creation of New Interests*

203. The two preceding recommendations are of a temporary character, arising from war conditions. We have now to deal with certain matters of a permanent nature.

For many years Special Acts authorising the compulsory acquisition of property by public authorities have contained provisions directing the arbitrator in assessing compensation to ignore buildings erected, improvements made and interests created in the land in question after the date upon which notice to promote the Bill was published where carried out with a view to increasing compensation. A provision with a similar object is commonly required by General Acts to be incorporated in Ministerial Orders obtained thereunder, as a modification of the Lands Clauses Acts and the Act of 1919; such a provision is also generally included in Provisional Orders authorising public purchases of land.

A typical provision is that contained in the Town and Country Planning Act, 1932, Third Schedule, Part I, paragraph 3'(i)* :—

“(i) The arbitrator shall not take into account any building erected or any improvement or alteration made or any interest in land created after the date on which notice of the order having been made is published in accordance with the provisions of this Schedule if, in the opinion of the arbitrator, the erection of the building or the making of the improvement or alteration or the creation of the interest in respect of which a claim is made was not reasonably necessary and was carried out with a view to obtaining compensation or increased compensation.”

This provision does not achieve its object. The probability or even the certainty of redevelopment or planning schemes is known long before the date on which the notice of the Order is published. Again, the burden of showing that improvements or alterations have been duly made or interests duly created should rest upon the claimant. He knows the circumstances: the acquiring authority do not. Again, it should not be necessary both that there should be unjustifiable improvements and that the making of them was carried out with a view to obtaining compensation or increased compensation. Lastly, regard should be had to works done on other lands of the claimant as well as to works on the lands which are being acquired.

We therefore suggest that a provision on the following lines should be substituted for that quoted above and should be included in the Act of 1919 so as to apply generally in the case of all compulsory purchases of land by public authorities :—

“The arbitrator shall not take into account any interest created in the land proposed to be acquired after the specified date or any enhancement of the value of any interest in the said land by reason of any building erected, works done or improvement or alteration made after the said date, either on the said land or any other land with which the claimant is or was at the date of the erection or doing or making of the building, works, improvement or alteration directly or indirectly concerned, unless the arbitrator is satisfied that the creation of the interest or the erection of the building or the doing of the work or the making of the improvement or the alteration took place in the ordinary course and not with a view to obtaining compensation or increased compensation.”†

* See also, e.g., Housing Act, 1936, First Schedule, para. 2 (b).

† See paras. 194–201 above in reference to pre-war standard of value.

The "specified date" shall mean the date specified or otherwise provided for by the Order (whether a Provisional Order or a Ministerial Order) or the Special Act, as the case may be, or if there is no such date then the earliest date on which, in the opinion of the arbitrator, the claimant knew or might reasonably be expected to have known of the proposed acquisition of the land.

(iv) *Sites of Stopped-up Highways*

204. A small point arises on the stopping-up of highways which is frequently but not invariably dealt with in Acts or Orders incorporating the Lands Clauses Acts and the Act of 1919. The Third Schedule to the Town and Country Planning Act, 1932, for example, provides (see Part I, paragraph 3 (iii)) that "where the land to which the Order relates is land forming the site of a highway which has been stopped up under a provision contained in a scheme, any compensation payable shall be assessed on the basis that the land could not lawfully be used in any manner which, if the highway had not been stopped up, would have interfered with the right of the public to use that highway".

The reason for this provision lies in the fact that ownership of the soil beneath a public highway is vested in the frontagers, and, if the highway ceases to be a highway, full control over both surface and sub-soil reverts to them. If a notice to treat for the land is served *after* the stopping up, the owner would, but for this modification of the general law, be able to claim full unrestricted value for the highway site and thus get the benefit of the increased value to the highway site arising from the closing. The modification quoted ensures that the acquiring authority shall not be required to pay the increased value arising from their own action, and in our view there can be no justification, in any case, for their having so to do. **We, therefore, recommend that the provision quoted above should be made a Rule of general application.**

(v) *Set-off*

205. The question of the setting-off of "betterment" against compensation whether upon the acquisition of land or in respect of injurious affection is fully dealt with in a later Chapter of this Report.* It will therefore be sufficient for us here to refer to the later Chapter and state briefly by way of anticipation the conclusions there recommended.

No provision for set-off is contained either in the Act of 1919 or in the Lands Clauses Acts; but such a provision is commonly found in other General Acts † as well as in numerous Special Acts. If our proposed scheme for periodic levies which we make in Chapter IX ‡ is accepted, then it is recommended that, from the coming into effect of the scheme, all statutory provisions for set-off, whether against compensation on acquisition or against compensation for injurious affection, should be abrogated save as respects undeveloped land outside "town areas" while it remains undeveloped. If, on the other hand, effect is not given to our scheme for periodic levies, then we think that there should be inserted in the Act of 1919 a provision for set-off applicable generally, though, for the reasons which we give in Chapter IX (paragraphs 287 and 288), we doubt very much whether it would be of great practical advantage.

(3) ASSESSMENT OF COMPENSATION FOR INJURIOUS AFFECTION

(a) *General*

206. The compensation payable in respect of injurious affection is (apart from the special provisions applicable under certain Acts§) assessed upon one

* See Chapter IX, paras. 284-288.

† E.g., Restriction of Ribbon Development Act, 1935; Public Health Act, 1936; Housing Act, 1936.

‡ See Chapter IX, paras. 308 *et seq.*

§ E.g., Sections 18 *et seq.*, Town and Country Planning Act, 1932, and Section 9, Restriction of Ribbon Development Act, 1935, which are dealt with in Chapter VIII.

principle where no lands are taken from the claimant and upon an entirely different principle where lands are taken from him.

In the former case the owner is entitled to compensation only if he establishes that the damage or loss results from an act made lawful by the statutory powers, and is such as would have given rise to a legal cause of action but for the existence of the statutory powers, and is caused by the construction of the authorised works as distinguished from their user. Moreover, the damage must be an injury to lands as distinct from a personal injury or an injury to trade.

In the latter case the range of compensation is much wider. The owner is entitled to compensation for damage due to severance, and for disturbance of his occupation—matters which do not arise for consideration in the former case. For the rest, it is sufficient for the owner to show that damage will result from acts done in the exercise of statutory powers to his remaining lands held with the lands taken. It is not necessary for him to show that, but for the statute, the damage would be actionable: all consequential damage may be claimed whether it results from construction or user. The damage is not limited to damage to lands: but as regards damage for user the damage can be claimed only in respect of what is done in execution of the statutory powers *on lands taken from the claimant*. Damage resulting from user on lands not so taken is excluded.

207. There can in our opinion be no reason for altering the law so far as it allows an owner, from whom land is taken, compensation in respect of severance and for disturbance of his occupation so far as caused by the taking of land from him. He has by severance and disturbance suffered direct damage peculiar to himself. In other respects the existing rules are open to criticism. It may be argued that the circumstance that land is taken from a claimant should be immaterial in determining the principles on which compensation for injurious affection is given, and that the right principle is to give to all owners of land compensation for damage caused by the due exercise of statutory powers on some common principle which takes into account only the nature of the works authorised and the kind or extent of injury suffered.

208. In theory it may be difficult to answer this argument. But, so far as owners from whom no land is taken are concerned, the fact is that the existing rule under the Land Clauses Acts has been in force for nearly 100 years and that only in exceptional cases (e.g., London Passenger Transport Act, 1934, Section 54) has the rule been modified in their favour. Nor have we received evidence of complaints of the working of the rule. Possibly the reason is that, broadly speaking, persons from whom land is taken are more likely to be prejudicially affected by the user of authorised works than persons from whom no land is taken. However this may be, we are not prepared to recommend any alteration of the long-established rule in the case of persons from whom no land is taken.

209. The next question is whether there should be any alteration in the substance of the rule so far as it affects persons from whom land is taken. It has been suggested that, having regard to our decision upon the position of persons from whom no land is taken, persons from whom land is taken should not receive compensation for injury suffered by them except in so far as they have suffered injury in excess of that suffered by others in the same neighbourhood. We have given considerable attention to the idea embodied in this suggestion, but we have found ourselves unable to formulate a rule which would be workable in practice and would do justice to the landowner. We make therefore no recommendation for its alteration.

210. We should add upon this point that the Scott Committee came to the conclusion that it was impossible to defend in principle the distinction for purposes of injurious affection by user between the case of an owner from whom no land was taken and an owner from whom land was taken. Their conclusion was that injurious affection fell into two classes :—

(i) the damage to an owner from whom land was taken arising directly from the taking, e.g., by severance or disturbance of occupation,

and (ii) damage arising from the construction or user of works to any owner of land.

They recommended as regards (i) that compensation for injurious affection should in general follow as of course, and that as regards (ii) the Sanctioning Authority (which they proposed should be set up) should exercise a discretion, allowing compensation for direct and substantial depreciation of market value if they were of opinion that, in the circumstances, it was reasonable and expedient to do so.*

(b) Time for claiming Compensation

211. Under the existing rules the claim for injurious affection by user has to be dealt with at the same time as the claim for compensation for the lands acquired. Facts are better than predictions, and in our opinion it would in many cases be fairer both to the acquiring authority and to the owner if the claim for injurious affection could be dealt with after the authorised works had been completed and had been in operation for an appreciable time.

We accordingly recommend that (if the arbitrator so directs) the determination of the claim for injurious affection resulting from the exercise of statutory powers may be postponed for such period not exceeding 2 years from the date of the acquisition of the land as the arbitrator shall determine.

In cases where such postponement occurs the compensation will be paid to the persons (or their successors in title) who would have been entitled thereto had the claims been determined at the same time as the claims for compensation for the land taken.

(c) Subsequent Change of User by Acquiring Authority

212. In assessing compensation for injurious affection by user regard must, as things stand, be had to the uses to which lands acquired from the owner may possibly be put by the acquiring authority. Lands acquired by a local authority for some particular purpose may at a later date, with the consent of the appropriate Minister, be diverted to any other purpose for which the local authority may acquire land.† The result is that claims for injurious affection may be swollen by reference to possible future uses of the land which are not in contemplation at the date of acquisition. It has been held that a local authority may, on acquisition of land by agreement, enter into covenants restricting the use of the acquired lands for purposes other than those for which they are being acquired.‡ But it would appear that the principle is not applicable on compulsory acquisition.§ In our view there is no sound reason

* See Second Report, Cd. 9229, para. 50.

† Local Government Act, 1933, Section 163. This Act does not apply to Scotland or London, but similar provisions are included in Section 106 of the London Government Act, 1939.

‡ *Stourcliffe Estates Co., Ltd. v. Bournemouth Corporation*, [1910] 2 Ch. 12.

§ *Ayr Harbour Trustees v. Oswald* (1883), 8 App. Cas. 623.

for the distinction, and we think that the acquiring authority should be empowered effectively to enter into undertakings or restrictive covenants on compulsory acquisition as on acquisition by agreement, restricting the uses of land to specified purposes; so that the compensation may be assessed on that basis and without regard to possible changes of user in the future.

213. Circumstances may, however, change, and provision should therefore be made for getting rid of undertakings or covenants affecting the use of land entered into by the local authority under the power we have suggested, subject to the payment, where proper, of further compensation.

214. We accordingly recommend as follows :—

(i) an acquiring authority should be authorised on the acquisition of land under statutory powers, whether by agreement or compulsorily, to give an undertaking or to enter into restrictive covenants as to the uses to which the land will be put;

(ii) in assessing compensation for injurious affection resulting from the exercise of the statutory powers, the arbitrator should take into account and (where necessary) embody in his award any such undertaking or covenant;

And in order to meet possible change of circumstances—

(iii) any such undertaking or covenant may be removed or modified in the circumstances mentioned in Section 84 of the Law of Property Act, 1925, in accordance with the procedure and on terms mentioned in that Section, or (where the circumstances are not such as to bring the case within that Section) may be removed or modified with the assent of the appropriate Minister, and, in the latter case—

(iv) the Minister may, if he is of opinion, having regard to the character of the uses originally intended and of the proposed new uses and to all other relevant circumstances (including any compensation for injurious affection previously paid and the length of time since the land was acquired), that no compensation or no further compensation ought to be paid, so certify in giving his assent: but in all other cases the acquiring authority should be liable to pay to the persons (or their successors in title) who would have been entitled thereto such compensation or additional compensation as may be proper had the proposed new uses been those for which the land was originally acquired.

(d) *Pre-War Standard of Values*

215. We dealt fully, in reference to the compensation payable on the acquisition of land*, with the question of what we have called the "March 1939 ceiling," and it remains to consider the application of the principle to claims for compensation for injurious affection. In our view the result is:—

(i) that, in estimating the *degree* of injurious affection to land or buildings, whether by severance, construction of works, user, the public control of land or buildings under planning schemes, or otherwise, reference will be made to the circumstances as they exist at the date of the acquisition of the land, but

(ii) that the *quantum* of compensation will be subject to the operation of the "ceiling" in accordance with the rules which we have set out in paragraph 198 above.

Thus the first stage will be to discover the extent to which the property has been damaged (i.e., the *degree* of injurious affection). Suppose that as a

* See paras. 194 *et seq.* above.

result of the works authorised the value of the claimant's house is reduced by 25 per cent. The second stage is to discover the maximum or "ceiling" appropriate to the 25 per cent.; and this will be calculated by reference to the value of the premises under conditions as they existed on 31st March, 1939*.

The application of the "ceiling" will continue during such period after the war as circumstances may require.

(e) Compensation for Trade Disturbance—Excess Profits Tax

216. In assessing compensation for injurious affection suffered by a trader part or the whole of whose premises are taken, there is allowed in respect of trade disturbance a sum which is based on the volume and profits of the trade carried on at the date of acquisition. We do not recommend any alteration in the general principle involved in this allowance, but we think that the liability of the trader to Excess Profits Tax ought to be taken into account. We do not suggest that the sum payable by him in respect of that tax should be treated as a deduction to be made in ascertaining his profits for the purpose of the rule. **It will be sufficient if provision is made that in assessing compensation for injurious affection in respect of trade disturbance, full regard should be paid to liability in respect of his trade to Excess Profits Tax, and we recommend accordingly.**

(f) Tribunal for assessing Compensation

217. It appears to be open to doubt in reference to claims by persons from whom no land has been taken whether the compensation is to be assessed in accordance with the procedure prescribed by the Lands Clauses Acts or the Act of 1919. In our view it is desirable that there should be uniform procedure in all cases, and **we recommend accordingly that all compensation for injurious affection should be assessed by the Official Arbitrator in accordance with the procedure applicable under the Act of 1919†.**

(4) ARBITRATION PROCEEDINGS

(a) Appointment of Official Arbitrators

218. By the Act of 1919 a Reference Committee was established whose function it is to appoint as Official Arbitrators a number of persons with special knowledge in the valuation of land, their term of office and salary being determined by the Treasury. By Section 1(3) (which now applies only in England and Wales) an Official Arbitrator, while holding office, is precluded from engaging in private practice or business and from being a partner of any other person who so engages.

The system of arbitration before a single arbitrator has not been the subject of much adverse comment and for the most part the evidence we have received is in favour of its retention. Suggestions have been made to us that the arbitrators should be replaced by a number of separate tribunals, one for each locality, consisting of three local valuers, or of a barrister, a surveyor and a local business man, or that the arbitrator should be assisted by a barrister and a commercial man as assessors. Another suggestion put to us is that a large panel of practising surveyors should be formed to act as arbitrators either by rota or by nomination of the parties concerned.

We are convinced that these suggestions would not provide any improvement on the existing machinery. The suggestion for the appointment of a barrister

* In the example given the buildings are assumed to have existed in March, 1939. In the case of new buildings the "ceiling" will be applied in accordance with principles as stated in paras. 197 and 198 above.

† See paras. 218 *et seq.*

and a commercial man as assessors would in our view be a retrograde step in that it involves reversion from a method of adjudication by an expert to a system of assessment by an inexperienced jury. We see no reason to suppose that a barrister and a business man would be in any way competent to assist an arbitrator selected for his position by reason of his professional attainments.

The system of official arbitration has proved satisfactory in England and Wales for a period of over 20 years, and we do not believe that any difficulty will arise in securing suitable men for appointment.*

Our conclusion, therefore, is that the existing system in England and Wales of arbitration before an Official Arbitrator is one which cannot readily be improved upon and we do not recommend any amendment.

219. In Scotland, the experience of the 11 years following the passing of the 1919 Act showed that the volume of work available was insufficient to justify the retention of a full-time arbiter. A further difficulty arose from the fact that with only one arbiter no deputy was available to act for him in case of illness. Partly therefore as an economy measure and partly as a more practicable arrangement, the Acquisition of Land (Assessment of Compensation) (Scotland), Act, 1931, was passed which removed the ban on private practice so far as Scotland was concerned and established a panel of part-time arbiters, remunerated by fees, who were not precluded from engaging in private practice. The panel at present consists of 33 members, all of whom, with the exception of 4 Mining Engineers, are Surveyors or Estate Factors.

The evidence we have received on this aspect from representative Scottish sources is not unanimous in its criticism of the existing procedure, but there is considerable indication that it is looked on with disfavour by acquiring authorities. It is stated in some quarters that there has been a noticeable disparity in awards in similar cases and varying attitudes on points of principle, and, indeed, this is bound to be so to a greater extent where there is a large panel than would be the case if all awards were made by the same person or by members of a small and closely co-ordinated panel.

220. It has been represented to us that since the introduction of the panel system in Scotland, acquiring authorities have been more unwilling to arbitrate and have been inclined to make an unfavourable settlement rather than risk an uncertain award. It is perhaps natural that authorities should view the position with some suspicion if, as has happened, a Surveyor can be arbiter in one case and at the same time negotiate, or appear as a witness before another arbiter in a similar case. We do not, we need hardly say, make any suggestion that when acting as arbiter any member of the panel has in the past displayed any bias, but we attach great importance to the principle that not only must justice be done, but that it should appear to be done, and in fairness to all parties, including the arbiters themselves, it is necessary to remove as far as practicable any possibility of accusation or reproach.

We think that it would be preferable to have an Official Arbiter appointed for Scotland again as was the case between 1920 and 1931. We hesitate to make a definite recommendation to this effect if the number of future arbitrations is likely to be so few as to make the machinery excessively expensive to administer. But the expansion of public acquisition in the period of post-war reconstruction may be expected to justify the re-establishment of the official arbiter temporarily, if not permanently.

(b) Costs

221. In dealing with the arbitration machinery, it is well to bear in mind the fact that it is the exception, and not the general rule, for the acquiring authority and the owner or his representative to fail to reach agreement. In the

* See Section 8 (1) of the Act of 1919, permitting reference by agreement to an outside arbitrator.

London County Council area, for instance, the number of acquisition cases has been in recent years of the order of 1,000 a year, but less than 1 per cent have proceeded to arbitration. In general, negotiations are carried on in a friendly and reasonable atmosphere, both sides being willing and anxious to reach agreement.

222. The usual practice, after the initial claim and counter-claim, is for the parties to try by negotiation to eliminate the margin of difference by mutual examination of the factors to be considered in arriving at the true value, and offers are made without prejudice on either side. If negotiation fails and the case proceeds to arbitration, the tendency is for both sides to start from their original figures, which may be wide apart and from which they have both already expressed willingness to depart. This is largely the explanation of the fact that arbitrator's awards are almost invariably higher than the acquiring authority's offer and lower than the owner's claim; but the award of costs, which is in the arbitrator's discretion, necessarily takes into account the original claim. In the result, the award may be lower than the authority offered in negotiation or, conversely, higher than the owner had expressed a willingness to accept.

223. Section 5 of the Act of 1919 contains provisions to the effect that, where an unconditional offer has been made by either party and the award is not more favourable to the other party than the sum offered, the arbitrator shall, in the absence of special reason, mulct the other party in costs. We are agreed that the order as to costs must be left in the discretion of the arbitrator to enable any special features to be taken into account, but we think that the existing rules could with advantage be made more stringent.

We recommend :

(1) that the acquiring authority should be statutorily bound to make an unconditional offer of the maximum sum they are prepared to pay, to be communicated to the claimant before the arbitration but not communicated to the arbitrator ;

(2) that the offer should be sealed and not handed to the arbitrator but kept out of his possession until after his award has been published ;

(3) that the arbitrator should then make a separate award of costs according to his discretion but after seeing the sealed offer.*

It does not appear to us to be necessary that a claimant should be similarly bound by statute to put in a sealed offer, although he should be free to do so if he so desires.

(c) Proceedings before Arbitrator

224. In the vast majority of acquisition cases no question of law arises and the only question is value. Speedy decision is desirable and the object of the machinery should be to combine efficiency with simplicity and the minimum of expense.

One of the results of the appointment of Official Arbitrators was that for a time proceedings were informal and decisions were reached expeditiously. In recent years, however, there appears to have been a tendency to make proceedings more formal, to engage Counsel and introduce prolonged arguments, with the result that hearings which could have been completed satisfactorily in a few hours may now extend over many days. It is no doubt necessary

* The position of an arbitrator will be comparable to that of the judges under the present Supreme Court Rules whereby a payment into Court in an action may not (save in certain special cases) be communicated to the judge until he has given his decision on the issues in the case but before his award as to costs.

for the arbitrator to have before him all the relevant facts on which the parties base their valuations, but this can be done most satisfactorily, and should be done, in the form of pleadings without the necessity of oral exposition. It is essential, too, that the arbitrator should be able to question the parties or their advisers if he desires any explanations or additional facts. But expositions by Counsel, although desirable in some cases, are unnecessary in the vast majority, and efforts should be made to re-establish the machinery on the simplest possible lines. **We therefore recommend that, by Rules of the Reference Committee, provision should be made to secure that the hearing should be as informal as possible, and that, after valuations have been exchanged and submitted to the arbitrator, it should be left to him (after ascertaining the views of the parties) to decide whether he wants to hear legal argument or only to see the Surveyors for each side—a matter which can frequently be done at the same time as he inspects the property.**

(d) Right of Appeal

225. Section 6 (1) of the Act of 1919 provides that the decision of an Official Arbitrator on any question of fact shall be final. With this we are in agreement. The Section also provides for a decision by the High Court on any question of law arising, and by Sub-section (2) the decision of the High Court is final and conclusive and may not be subject to appeal to any other Court.

In our opinion this statutory restriction should be reconsidered. Points of law of wide application may arise which are proper to be considered by a higher tribunal, and **we suggest that, subject to leave in each case being given, there should be a right of appeal to the Court of Appeal, and, if necessary, to the House of Lords.** If this suggestion is adopted, consideration ought, we think, to be given to the question of costs involved where an acquiring authority desire to get the decision of the higher Courts on some question of general principle. One method would be to make it clear that it fell within the jurisdiction of the Court, as a term of granting leave to appeal, to impose conditions as to the incidence of costs whatever might be the ultimate result of the appeal; but we do not think it necessary for us to do more than mention the point.

(e) Availability of Evidence

226. We have referred earlier in this section of our Report to the need for all available information being placed before the arbitrator in order to enable him to make an accurate determination of value, and it is equally desirable that full information should be available to both sides during negotiation in order that the full opportunity should be given for the parties to reach a fair agreement and avoid the trouble and expense of arbitration.

One of the most valuable guides to the current value of any particular property is reference to actual transactions which have taken place in comparable properties, and it would accordingly be of great assistance to those negotiating or determining the value of a property to have before them details of comparable transactions. Under Section 28 of the Finance Act, 1931, on the sale of the fee simple of land, or on the grant of any lease of land for a term of seven years or more, or on the transfer on sale of any such lease, the transferee or lessee is obliged to produce the instrument to the Commissioners of Inland Revenue. Details of the property and of the consideration are recorded, and the records are kept in the District Branches of the Valuation Office of the Inland Revenue Department, so that there is in every District of the country a full record of all transactions in the area which have taken place since 1931. At present these records are for departmental use only

and, except in the hands of the District Valuers, are treated as confidential, but we are of the opinion that steps should be taken to make it possible for parties concerned in public acquisition cases to have access to the details of sales of comparable properties.

Our recommendation, therefore, is that the negotiating parties in all cases of public acquisition should have the right to obtain from the Inland Revenue Department on application (and subject to the payment of such fees as may be thought fit) complete information regarding the sales or leases of particular named properties, including the considerations paid, the extent of the interest disposed of, and the names and addresses of the parties concerned in the transaction. The possession of this information by both sides should, we think, facilitate settlements, and shorten proceedings before the arbitrator, though we recognise that the arbitrator in estimating the weight to be attached to evidence of alleged comparable transactions might well require to be informed of the surrounding circumstances.

It has been suggested to us that the position might be satisfactorily met by giving the arbitrator the right to call the District Valuer as a witness, but we are not in favour of this procedure. It would do nothing to help agreement being reached without resort to arbitration and would tend to increase the cost of arbitration proceedings.

(5) MISCELLANEOUS

Life of Buildings

227. It has been suggested to us from some quarters that for all purposes of compensation there should be imposed on every building a limited "life" to correspond with the period of its usefulness and adequacy, according to the standards from time to time prevailing. We are not prepared to accept this suggestion as a universal rule, but in particular cases we think that a "life" ought to be attributed to buildings for purposes of compensation on acquisition.

Under the Housing Act, 1936, houses within Clearance Areas and Redevelopment Areas* which are unfit for human habitation are specially dealt with. It is provided by Section 40 that the compensation payable for land, including any such buildings thereon, shall be limited to the value of the site as a cleared site available for development subject to existing building bye-laws; but, under Section 42, where, notwithstanding its sanitary defects, a house has been well maintained, the owner may receive sums in excess of its site value.

The fairness of the principle involved in these provisions is not, in our opinion, open to dispute. But the question arises whether that principle or a modification of it ought not to be made applicable to other classes of buildings. We do not see any reason for extending the "site value" rule to buildings other than those referred to in the Act, but we think that, as regards buildings which are not in accordance with modern standards, a "life" should be attached to them for purposes of compensation on acquisition.

We therefore recommend that an additional paragraph be added to the Fourth Schedule of the Act to the following effect :—

"In assessing compensation for premises purchased under Section 29 or Section 36 of this Act which, although not unfit for human habitation, are, by reason of their age, design, construction, arrangement or density, not in accordance with the standards applied to new buildings for similar purposes in the same or a similar district, the arbitrator shall assume that such buildings will become incapable of being used or let at or before the

* See Part III, Sections 25 to 37, 40 to 49 and Fourth Schedule.

expiration of 10 years from the date of the Minister's approval of the Clearance Order or Compulsory Purchase Order, as the case may be".

We further recommend that the provisions in regard to compensation contained in Section 40 and the Fourth Schedule to the Housing Act, 1936 (as amended) ought to be made applicable in the case of Reconstruction Areas* and other cases where substantial blocks of land are acquired for redevelopment.

228. In paragraph 247 of Chapter VIII we recommend that a "life" shall be placed on buildings and uses which are out of conformity with a planning scheme with a view to securing conformity without compensation at the expiration of that "life" in any particular case, and we there further recommend that, if the planning authority consider it necessary to enforce conformity before the expiration of the "life," any compensation payable shall be assessed by reference to the remainder of the "life" still outstanding. There is clearly no difference in principle between the enforcement of conformity and the public acquisition of the property so far as the basis of compensation is concerned, and we accordingly recommend that, where a "life" has been placed on a "non-conforming" building or use under our recommendation (A) (2) in paragraph 247 of Chapter VIII, the compensation payable in the event of the property being publicly acquired shall be assessed by reference to the remainder of the "life" still outstanding: Provided that the compensation payable under this rule shall not exceed the amount payable under Section 40 and the Fourth Schedule to the Housing Act, 1936 (as amended in accordance with our recommendations in the preceding paragraph) in the case of any property to which those provisions would apply.

CHAPTER VIII

COMPENSATION FOR PLANNING RESTRICTIONS

(1) INTRODUCTORY

229. Provision is made in a number of general public Acts for the payment of compensation for injurious affection to property caused by what may conveniently be described as planning restrictions. Such provisions are to be found in the following Acts:—

(i) The Roads Improvement Act, 1925, Section 5, in relation to the prescription of a "building line" (i.e. a line beyond which buildings may not project);

(ii) The Public Health Act, 1925.—

(a) Section 31, where a local authority require a new street to be formed of a width exceeding by more than 20 feet the maximum width prescribed for a new street by any bye-law or enactment in force in the area; and

(b) Section 33, in relation to the prescription of an "improvement line" (i.e. the line to which the street shall at some future date be widened);

(iii) The Town and Country Planning Act, 1932;

(iv) The Restriction of Ribbon Development Act, 1935 (whose provisions were extended, with the necessary modifications, to trunk roads by the Trunk Roads Act, 1936).

* See Chapter V, para. 145.

Many local Acts also provide for compensation for injurious affection on various grounds, e.g., the prescription of a "building line" on county roads, the construction of sewers, the protection of gathering grounds in connection with water supply, etc. Reference may also be made to the provisions of the London Squares Preservation Act, 1931, for compensation for the restriction of user of the squares to which the Act applies.

In the case of none of the Acts above referred to have we received any suggestions for the amendment of the compensation provisions except the Town and Country Planning Act, 1932, and the Restriction of Ribbon Development Act, 1935. We propose, therefore, to confine our attention to those two Acts.

(2) TOWN AND COUNTRY PLANNING ACT, 1932

(a) *Present Compensation Provisions*

230. The main provisions relating to compensation are to be found in the following Sections* :—

Section 18, which gives a general right to claim compensation to persons whose property is injuriously affected (*inter alia*) by the coming into operation of any provision in a planning scheme ;

Section 19, which empowers the Minister to exclude compensation in certain classes of cases ;

Section 20, which provides for the automatic exclusion or limitation of compensation in certain other cases ;

Section 22, which prescribes the procedure (including the time limit) for making claims ;

Section 23, which lays down that, unless the authority and all persons otherwise agree, claims to compensation shall be determined by an Official Arbitrator appointed in accordance with the Acquisition of Land (Assessment of Compensation) Act, 1919 ; and

Section 24, which enables the authority, against whom an award of compensation has been made, to withdraw or modify those provisions of the scheme which gave rise to the claim.

(b) *Principles of Existing Code*

231. The main principles of the 1932 Act code of compensation in relation to planning restrictions may be briefly stated as follows :—

(i) Compensation must be paid in respect of injurious affection to property arising from the operation of any provision in a planning scheme unless the provision is one of a specified list set out in the Act in respect of which compensation may be excluded.†

(ii) The distinction between provisions in respect of which compensation may be excluded and all other provisions in respect of which compensation must be paid is a rigid one. The Minister has no discretion in the matter, and there is no intermediate stage between no compensation and full compensation.

* Sections 18, 19, 20 and 22, together with the definitions of "existing building", "existing work" and "existing use" in Section 53, are reproduced for convenience in Appendix III. Section 21 relates to betterment which is dealt with in Chapter IX.

† For present purposes the automatic exclusions from compensation contained in Section 20 may be ignored.

(iii) Even in the case of the specified classes the Minister's power to approve the exclusion of compensation is subject to both (a) general directions and (b), in some cases, specific limitations :—

(a) He must be satisfied that the provision in question is proper and reasonable and expedient having regard to the local circumstances, and he must have regard to the nature, situation and existing development of the land affected by the provision and of neighbouring land, and also to the interests of any person who would be affected by the scheme (Section 19(2)(i) and 19(5)) ;

(b) The most important specific limitations relate to savings for existing buildings and existing uses in respect to certain provisions mainly affecting buildings (Section 19(2)(ii)), and savings for rights to work minerals in respect to a provision prohibiting or restricting the use of land on certain grounds (Section 19(2)(iii)).

(c) *Defects and Difficulties of Existing System, and proposed Remedies*

General Observations

232. The difficulties which arise under the present system are due to three main defects in the compensation code :—

(i) There are provisions necessary to effective planning in respect of which compensation cannot be excluded at all.

(ii) Only *local* circumstances may be taken into account as justifying the exclusion of compensation (*see* Section 19(2)(i)).

(iii) Specific limitations are imposed on the right to exclude compensation in respect of certain provisions, and these limitations, particularly in the matter of savings for existing buildings and uses (*see* Section 19(2)(ii)), are a serious hindrance to planning, and, in fact, are inconsistent with planning.

All these matters relate to questions of compensation on a planning scheme coming into operation. We agree that the present code is right in making no provision for payment of compensation during the interim period between the passing of a resolution to prepare a scheme and the coming into operation of the scheme by reason of the refusal of an application to develop or the imposition of conditions on its granting, and we assume that this principle will be maintained in the projected legislation for strengthening interim development control.

It is desirable at this stage to recall that the control of development on land within the ambit of the "development rights scheme" will be in the hands of the State as owner of the development rights, and the effect on ordinary Town Planning legislation of the "development rights scheme" should be borne in mind in reading the remainder of this Chapter*.

Provisions for which Compensation cannot be excluded

233. We have already observed† that, under the 1932 Act, the provisions in a planning scheme in respect of which compensation cannot be excluded may be no less in the public interest than the specified provisions in respect of which it may be excluded, and that the line drawn between the two classes rests on no clear principle.

For instance, under paragraphs (a), (b) and (c) of Section 19(i) (which broadly speaking deal with estate development) the number of buildings may be limited, and the space about them prescribed and the design or external appearance regulated ; but a minimum frontage cannot be prescribed without liability to compensation. Yet the question of frontage may be an important

* *See* Chapter IV, para. 127 above.

† *See* para. 34 above.

factor in amenity, and we cannot see any logical ground on which compensation should be claimable in respect of the one requirement when it is not in respect of the other. Again, it appears to us to be anomalous that compensation cannot at present be excluded in respect of provisions controlling lay-out generally so as, for example, to prevent buildings being placed on their sites at any angle, and without proper access, with the result that not only is amenity injured but not infrequently living rooms have quite the wrong aspect for healthy conditions. A third instance is to be found in the fact that, although under paragraph (e) of Section 19(1) building can be prohibited without compensation on the ground that it is "likely to involve danger or injury to health" (e.g., because the land is liable to serious flooding), compensation cannot be excluded in respect of a provision prohibiting building on the ground of risk to life.

234. In this connection we should refer to the fact that compensation cannot be excluded in respect of a complete and permanent prohibition against building, except in the limited cases arising under Section 19 (1) (e).^{*} Land cannot, therefore, be directly reserved for agriculture or permanently preserved from building development for the sake of amenity without liability to pay compensation. If, however, our "development rights scheme" be adopted, any difficulty in the way of a permanent and complete preservation from building of any part of the countryside will disappear: and we do not think there is sufficient reason for suggesting an alteration in the existing law in regard to open spaces, public or private, in built-up areas.[†]

Recommendation of General Power to exclude Compensation

235. In the circumstances we think that the existing criticisms will be met if the power to exclude compensation be made general, subject to certain safeguards.

We recommend, therefore, that the power of the Minister (or Central Planning Authority) to approve provisions in planning schemes excluding compensation should not be limited, as at present, to particular provisions specified in the Act, but, subject to certain general directions (see paragraph 236) and a few particular exceptions referred to below (in paragraphs 238 to 252), should be general.

This recommendation must be viewed in the light of the fact that, with the adoption of the "development rights scheme", the State will control development of undeveloped land by virtue of its ownership of the development rights, and that in the case of built-up areas planning restrictions are to a very large extent of the bye-law type in respect to which the exclusion of compensation is generally regarded as equitable; there are, however, certain exceptions and limitations which should be given effect to and these we deal with in paragraphs 238 *et seq.* below.

General Directions as to Exercise of Power to exclude Compensation

236. Under the present code the Minister's power to exclude compensation (in respect of the provisions specified in Section 19 (1)) must be exercised subject to the following general directions:—

- (i) He must be satisfied that, having regard to the objects of the scheme, the provision in respect of which compensation is to be excluded is proper

^{*} This is so, notwithstanding that compensation may be excluded in respect of a provision limiting density, and in respect of a provision for "zoning" an area by virtue of paragraph (g) of Section 19 (1), which allows the exclusion of compensation in respect of a provision which "restricts the manner in which buildings may be used".

[†] We draw attention to the existing powers to make agreements with owners in any area for preservation of land from development. See Section 11, Second Schedule (item 15), and Section 34 of the Act. See also para. 238 below as to the amendment of Section 19 (1) (e),

and reasonable and expedient having regard to the *local* circumstances (Section 19 (2) (i)) ;

(ii) He must have regard to the nature and situation and existing development of the land affected by the provision in question and of neighbouring land not so affected (Section 19 (5) (a)) ; and

(iii) He must have regard to the interests of any person who would be affected by the provision in respect of which compensation is excluded (Section 19 (5) (b)).

We do not suggest any modification of these directions except as regards the limitation in (i) to *local* circumstances as a justification for the exclusion of compensation ; but with planning placed for the future on a national basis, a question of importance arises. The point may be illustrated in this way : an owner has land which is suitable (say) for industrial development, and that use is prohibited, not by reason of local considerations, but on the ground that in the national interest, e.g. to spread employment, the development should take place elsewhere. Is the exclusion of compensation to be barred in such a case ? Our view is that, as a matter of general principle, a wider national interest might well justify the exclusion of compensation no less than local circumstances.

We accordingly recommend that the Minister (or Central Planning Authority), in considering whether it is " proper and reasonable and expedient " to exclude compensation in respect of any provision in a planning scheme, shall have regard to the national interest as well as local circumstances.

237. A further point may be conveniently mentioned at this stage. We have pointed out that the distinction between provisions in respect of which compensation may be excluded and provisions in respect of which compensation must be paid is a rigid one and that there is no intermediate stage between no compensation and full compensation, the Minister having no power to fix the basis of compensation where compensation is payable. We do not think this position is wholly satisfactory, for there may well be cases or classes of cases where compensation computed according to the ordinary rules would represent more than fair compensation for the injury suffered.*

We have considered whether the Minister (or the Central Planning Authority) should be given a discretion as regards the extent or amount of compensation payable in respect of planning restrictions where compensation is not excluded altogether, but we have come to the conclusion that this would be impracticable and would impose an unfair burden on the Minister (or the Authority).

Specific Limitations on Power to exclude Compensation

(i) Permanent Reservation against Building

238. In our view there is no sufficient case for excluding compensation in respect of a general provision permanently and completely restricting land against building. **We think, however (and recommend) that in paragraph (e) of Section 19 (1), the words " risk to life," should be added to the words " danger or injury to health ".**

*In this connection reference may be made to the recommendation of the Scott Committee that, in regard to injurious affection arising from the construction or user of works, which may result to an owner none of whose land is taken as well as to an owner some of whose land is taken, the Sanctioning Authority (which they proposed should be set up) should exercise a discretion as regards the amount of compensation, allowing compensation for direct and substantial depreciation of market value, if they were of opinion that, in the circumstances, it was reasonable and expedient to do so. (See Second Report, Cd. 9229. para. 50.)

(ii) *Prescription of Building Lines*

239. We do not recommend any alteration to the existing position under the 1932 Act in this connection.*

(iii) *Existing Buildings and Uses : Imposition of "Life"*

240. Under Section 19 (2) (ii) of the 1932 Act compensation cannot be excluded in respect of certain specified restrictions regarding buildings unless the scheme also includes provisions which allow owners (a) to maintain existing buildings and continue their existing use ; (b) to carry out "reasonable alterations and, in proper cases, extensions" ; (c) to replace an existing building, if it is destroyed or demolished, by a new building (of equal cubic content above the ground, and, in the case of industrial or business premises, of the same ground floor superficial area) provided the building is commenced within two years of the destruction or demolition (or such longer period as the planning authority may allow) ; and (d) to use the new building for "a purpose of the same or a similar character † as that for which the previous building was last used", with the one exception that, if the last use is both contrary to the scheme, and declared in the scheme to be "of a noxious or otherwise offensive character", it can be brought to an end, without compensation, on the demolition of the building. In short, either the scheme must safeguard existing buildings and the existing uses of buildings, or compensation must be paid in respect of all regulatory provisions relating to buildings and their use set out in paragraphs (a) to (e) of Section 19 (1).

"Existing building" and "existing use" are defined in Section 53 of the Act which is reproduced in Appendix III to this Report.

These safeguards for existing buildings and uses were in part the result of concessions made during the passage of the Bill through Parliament, but their main features were included in the Bill as first introduced in 1931, it being regarded as necessary "to protect the legitimate interests of owners of land already developed" ‡ in view of the extension of planning control to built-up areas.

The elaborate provisions for the protection of existing rights which apply after a scheme has come into force are supplemented for the interim development period by an even stronger safeguard ; for, under a further concession embodied in the proviso to Section 10 (3), (a) where an existing building is destroyed or demolished, an application made within two years thereafter to replace it by a building of equal cubic content and, in the case of business or industrial premises, equal ground floor superficial area, cannot be refused during the interim period unless under the scheme the new building would infringe a building line or a reservation proposed to be inserted in the scheme, and (b) an application to use the new building (provided the building is commenced within two years of the destruction or demolition of the previous one) for any purpose of the same or similar character as that for which the previous building was last used cannot be refused unless the use would be of a noxious or otherwise offensive character.

241. The effect of the provisions described in the foregoing paragraph is to perpetuate non-conforming buildings and uses ; for, although the planning authority can prevent an existing area being injured by the growth of further

* See Section 19 (1) (h), which is subject to the limitation in Section 19 (2) (v).

† The phrase "or a similar character" has been criticised on the ground that it opens too wide a door, but we make no recommendation on the matter.

‡ Memorandum by the Ministry of Health on the Town and Country Planning Bill 1931, Cmd. 3846. This Bill was withdrawn and reintroduced in 1932.

"non-conforming" uses, and can enforce the zoning provisions of the scheme where existing "non-conforming" uses die out naturally, nothing can be done, without compensation, to deal with existing buildings and uses.

We pointed out in paragraph 17 of our Interim Report that these particular restrictions on planning powers might well operate to prevent a planning authority from taking advantage of the opportunity afforded by the destruction of a "non-conforming user" in a war-damaged area. But this is only one aspect of a much bigger problem. What is true of war-damaged areas is equally true of areas requiring redevelopment in which there has been no war damage at all.

The question whether the right to maintain, replace, extend and use an existing building is to subsist in perpetuity, notwithstanding that the building does not conform to the provisions of the scheme (and it must be remembered that non-conformity may consist in excess density as well as incongruity of use), is fundamental in relation to the replanning of built-up areas. On the one hand, it would not be equitable, without compensation, at any time and for any reason to remove, or to prohibit the maintenance, replacement, extension or use of an existing building. On the other hand, an unqualified right, unless compensation is paid, to replace non-conforming buildings and to maintain existing uses permanently is inconsistent with the present conception of planning.

The problem is one of finding a proper balance between the two considerations, and, before putting forward our recommendations for its solution, it is necessary to draw attention to certain other matters.

242. In the first place, planning law has never admitted that an owner is, in all circumstances, entitled to compensation for the disappointment of expectations however reasonable. Thus, when undeveloped land is "zoned" under a planning scheme for future development (i.e., when the scheme imposes limitations on the type of building which may be erected on the land) or when a scheme limits the density at which dwelling houses may be built upon it, the owner has no right to compensation merely because the same land *might* have been used for a more profitable type of building or for the building of houses at a higher density than that prescribed. That being so, we see no logical reason why an owner should be entitled to compensation if, on his buildings being demolished in the ordinary course and by his own volition, he is not allowed to rebuild for the same use as before and at the same density as before where his proposals are out of conformity with the planning scheme. Where new and essential public standards are set up in the interests of health and amenity, there is, in our view, nothing unreasonable in expecting owners (on rebuilding at any rate) to conform with these necessary standards without being compensated.

243. Second, an argument of some weight in favour of limiting the right to non-conforming user, etc., is that the owner is himself enjoying the benefits of town planning and of conformity by *other people*. The benefits may not be limited to amenity; they may in some cases result in giving one individual an advantage over his fellows by removing competition.

244. Third, the existing provisions of the Act appear to accept the principle that in certain cases the detriment to the public interest of replacing a building in a particular location may be so great that compensation should not be payable in respect of a restriction on replacement. This is the case, for example, in regard to buildings on land unsuitable for development by reason of danger and injury to health (see Section 19 (1) (e)). A similar principle is applied to the continuance in a new building of a noxious or offensive use (see Section 19 (2) (ii) (d)). The Act, however, draws a sharp line between uses so detrimental that no compensation is payable, and other uses in which the right to continue

the user is absolute. This sharp differentiation of treatment does not correspond to realities. Detriment is a matter of degree, and there may be much detriment to the general interests of a locality although the use could not be said to be noxious or offensive within the meaning of the Statute.

245. The hampering effects on reconstruction and redevelopment of the present provisions for the protection of existing buildings and uses have been the subject of strong representations to us, and various suggestions for solving the problem have been put forward. Generally they proceed on the view, which we think is a right one, that a building or existing use should not, if contrary to the provisions of the scheme, be given a perpetual right of maintenance or continuance. In short, a "life" should be placed on any "non-conforming" building or use, and the right to maintain, replace, extend or use a building would be subject to that "life". What the "life" should be would depend on the circumstances of each case, and among the factors to be taken into account should be :—

(i) The probable effective physical life of the building in view of its age and condition ;

(ii) Its probable effective economic and income-producing life, having regard to the possibility of the site being put to a more profitable use by rebuilding (that is, the actual income being received should be compared with what a new building would produce) ;

(iii) The degree and nature of non-conformity or of the detriment caused by the particular building or user.*

246. Again, a distinction should be drawn between buildings which in some way or other are themselves unsatisfactory (as, for example, where the lay-out is too crowded) and buildings to which the only objection is that they conflict with some object of a scheme, such as an open space, or a road. Take the case of a building on the line of a proposed new road which otherwise conforms to the provisions of a scheme and which, therefore, if it were in a slightly different position, would be subject to no limit of life. If a limited life is placed on the building, then, at the end of it, the right of maintenance and replacement having gone, the owner loses not only the "bricks and mortar" value of his building, but also the building value of the site, which the local authority would then acquire at a much reduced cost. This would be inequitable for, *ex hypothesi*, his building conforms to requirements and it is in no sense his fault, but a mere accident, that it happens to be on the line of a road which has been planned.

It would not appear, therefore, that the principle of a life for buildings could properly be applied to properties which contravene the scheme only because they stand in the way of a public improvement, though, if on other grounds a life could be placed on the property if it were in a contiguous zone, the principle would be applied.

247. Our recommendations for dealing with the matter are as follows :—

(A) (1) If a non-conforming use of a building has ceased for a period of one year,† or if a non-conforming building is wholly or substantially demolished by the voluntary action of the owner, the use of the building

* For example, the "life" of a residential building in an industrial area should normally be greater than the "life" of an industrial building in a residential area.

† At present if the "existing use" of a building is discontinued for eighteen months no subsequent use of the building is deemed to be an "existing use"; see definition of "existing use" in Section 53 of the Act reproduced in Appendix III. In the case of "existing buildings", Section 19 (2) (ii) (c) of the Act allows a period of two years after destruction or demolition within which to commence rebuilding without forfeiture of the rights attached to an "existing building".

or of any new building and the erection of a new building must conform to the scheme, no compensation being payable. (We deal at (B) and (C) below with cases of buildings destroyed by accident and by enemy action respectively.)

(2) Subject to (1) above, the planning authority should have power by notice to be given at any time to require conformity with the planning scheme, without compensation, as regard (a) any non-conforming use or (b) any non-conforming building (except a building which contravenes the scheme only because it stands in the way of a public improvement), such requirement not to be enforceable until after the expiration of such period (the "life" of the use or building) as the authority may determine (subject to an appeal to the Official Arbitrator who may allow or refuse the appeal or may reduce or increase the period) after taking into consideration all the circumstances, including (a) the probable effective physical life of the building having regard to its age and condition, (b) its probable effective economic and income-producing life, and (c) the degree and nature of the non-conformity.

(3) If after a "life" has been determined under (2) above, the planning authority considers it necessary to enforce conformity before the expiration of such "life", the authority should be empowered to do so, but any compensation payable should be assessed with due regard to the fact that conformity would otherwise have been enforceable without compensation at the end of such period.

(4) In lieu of the provisions of Section 19 (2) (ii) (b) of the Act of 1932, as to reasonable alterations and extensions of existing non-conforming buildings, there should be a new provision that no such work may be carried out without the consent of the planning authority, which may be withheld or be given subject to conditions, and should be subject to appeal to the Central Planning Authority, but whatever may be the decision no compensation should be payable.

248. (B) If a non-conforming building is destroyed involuntarily (otherwise than by enemy action)—

(1) the owner should have the right to rebuild only in conformity with the scheme, and no compensation should be payable by reason of the prohibition of the re-erection of a non-conforming building.*

(2) The new conforming building should be allowed to be used for the pre-existing non-conforming use (if any) during the unexpired portion of the "life" applicable to the old building destroyed, but if the planning authority requires this non-conforming use to cease before the end of that "life" compensation should be payable on the basis laid down at (A) (3) above.

249. In the case of non-conforming buildings destroyed by enemy action, we think a distinction can properly be drawn between isolated buildings so destroyed, and those whose sites are within a devastated area which must be the subject of reconstruction as a whole. In the former case there may be no readily available alternative site, but in the case of "Reconstruction Areas"† planning authorities will be able to offer alternative sites in some other part of the area to the owner of a destroyed non-conforming building or user. In the latter case there would, therefore, be no hardship in not paying any

* The terms of fire insurance policies may have to be modified if our recommendation is accepted, and some amendment may be necessary to the Fires Prevention (Metropolis) Act, 1774.

† See chapter V, para. 145, above.

compensation for prohibiting the restoration of a non-conforming building or user.

(C) We accordingly recommend that, in the case of non-conforming buildings or conforming buildings used for non-conforming purposes which have been destroyed by enemy action,

(1) where their sites are in "Reconstruction Areas",* restoration of the non-conforming building or use should be prohibited without compensation ;

(2) in other cases, the same treatment should be given as in the case of buildings destroyed involuntarily otherwise than by enemy action—see (B) above.

Special representations have been made to us as regards the position of licensed premises destroyed by enemy action which were non-conforming to town planning requirements. We see no reason why the above rules should not apply so far as compensation under the 1932 Act is concerned. The question of the transfer of licences is a matter outside our terms of reference.

250. Non-conforming uses and buildings are so various in character and extent that we do not suggest that there should be a statutory definition of the "degree or nature of non-conformity" for the purposes of our proposals in the foregoing paragraphs. Indeed, we think that the question of what is "non-conformity" must be left to be determined by reference to the provisions of each particular scheme.

251. Although we are concerned in this Chapter only with the question of compensation for town planning restrictions, it is clear that, as regards the basis on which compensation should be calculated there is no difference in principle, in the case of a non-conforming building or use, between the enforcement of conformity and the public acquisition of the property. We have therefore recommended in paragraph 228 of Chapter VII that, where a "life" has been placed on a non-conforming building or use under our recommendation (A) (2) in paragraph 247 above for the purposes of securing conformity, the compensation payable on the public acquisition of the property shall be assessed by reference to the remainder of the "life" still outstanding.

(iv) *Mineral Working*

252. Under Section 19 (2) (iii) compensation cannot be excluded in respect of a provision prohibiting or restricting the use of land in so far as it—

"(a) prohibits or restricts the winning of minerals by underground working ;

(b) prohibits or restricts as respects any land the winning of minerals by surface working unless the land is reserved by the scheme, and has been substantially developed, for residential purposes ; or

(c) prohibits or restricts as respects any land so reserved the winning by surface working of minerals, if the Minister is satisfied, upon representations being made to him, that the minerals, or the right to win the minerals, had before the material date been acquired by some person for the purpose of winning them, or had before that date devolved upon some person desirous of winning them."

We recommend the deletion of the words "or had before that date devolved upon some person desirous of winning them" at the end of paragraph (c) as we see no logical ground in such a case for giving an absolute right to compensation for the prohibition or restriction of working of surface minerals on land reserved for residential purposes.

* See Chapter V, para. 145, above.

Apart from this modification, we do not suggest any alterations in the limitations on the right to exclude compensation.*

(3) RESTRICTION OF RIBBON DEVELOPMENT ACT, 1935

253. The title of this Act is somewhat misleading as it was by no means primarily designed to prevent ribbon development. Its object was a broader one, namely, to provide a new procedure for approving and safeguarding the lines of new roads and improvements of existing roads and to control the development along those proposed roads and existing roads from the two points of view of amenity on the one hand and safety and convenience of traffic on the other. Many of the powers of the 1935 Act exist in the Town and Country Planning Act, 1932, but are not there worked out systematically. The 1935 Act re-enacted those powers in a fresh form, and at the same time made provision for Exchequer grants in certain circumstances in aid of expenditure on control of access.

Many organisations have drawn attention in their evidence to us to the confusion and delay which arise from the multiplicity of authorities from whom licences and consents have to be obtained before development can be proceeded with, and to the difficulties which have arisen from the overlapping and duplication of planning controls by independent authorities, particularly of planning authorities and the Ministry of Health under the Town and Country Planning Act, 1932, and of highway authorities and the Ministry of War Transport under the Restriction of Ribbon Development Act, 1935, and various suggestions for simplifying the position have been put forward.

We do not, however, consider that it is within our province to make recommendations upon the question of the precise machinery which should be adopted for dealing with highway requirements under the new policy of national planning; we content ourselves with pointing out that the "development rights scheme" recommended in Chapter IV should greatly facilitate the achievement of some at any rate of the objects of the 1935 Act.

254. We are concerned here only with the compensation provisions of the 1935 Act. These are to be found in Sections 9 and 15†. The former Section provides for compensation for injurious affection in respect to restrictions under Sections 1 and 2 of the Act reserving standard widths of roads, protecting access to roads and prohibiting building within 220 feet of the middle of "classified roads". Section 15 deals with the effect on compensation of such restrictions where land is being acquired compulsorily.

We draw particular attention to proviso (a) to Sub-section (1) of Section 9 which provides that, "without prejudice to the power of a highway authority to agree with any claimant as to the payment of compensation, no claim for compensation under this section in respect of any injurious affection to any estate or interest shall be entertained by an arbitrator—

(a) unless the claimant satisfies the arbitrator—

(i) that proposals for the development of that land which at the date of the claim to compensation are immediately practicable or would have been so if this Act had not been passed, are prevented or injuriously affected by the restrictions; and

(ii) that there is a demand for such development."

* We have not entered into the substantive question of the terms on which surface mineral working should be permitted. The matter was considered by the Kennet Committee on the Restoration of Land affected by Iron Ore Working (Report, 1939), but, in our view, it requires examination as a whole. We felt that such an examination lay outside our province. We make some observations, however, on the question of mineral working in Chapter IV, paras. 117 *et seq.*

† Reproduced in Appendix III for convenience of reference.

As was explained during the passage of the Bill through Parliament, the proviso was deliberately designed to give a right to claim compensation "only when evidence is forthcoming that the restrictions are in fact limiting development"*; in other words, though there is no time limit for claims under the Act, a claim for compensation cannot be entertained until the would-be developer actually suffers hurt.

255. Section 9, and in particular the proviso to which we have just referred, gives rise to many difficulties both for claimants and those who administer the Act. We may mention some of these difficulties:—

(i) An owner who seeks to make a claim (say) 10 years after the Act will find it impossible to satisfy the condition precedent to a claim in proviso (a) to Section 9 (1) that "there is [apart from the Act] a demand for such development," for obviously no demand is demonstrable for development on land which is known to have been sterilised, or to have had no right of access for development, for 10 years.

(ii) If a person submits a scheme for development under the Act, the authority may refuse approval, but may say that, if certain alterations are made in it, they will pass it. If the required alterations are made and the plan is then passed, it appears from the decision of the High Court in *Melksham Urban District Council v. Wiltshire County Council*, [1937] 4 All E.R. 142, that the fact that the revised plan has been passed is a complete answer to any claim for injurious affection, so that the only hope of getting compensation in such a case is for the intending developer to make the claim and get it decided, or at least get the arbitration proceedings started, before the revised plan is put in.

(iii) The interaction between Section 20 (3) (a)† of the Town and Country Planning Act, 1932, and Section 9 (2) of the Restriction of Ribbon Development Act gives rise to anomalous results. The effect of Section 20 (3) (a) of the 1932 Act is that, even though a restrictive provision in a town planning scheme would normally carry a right to claim compensation, no compensation can be claimed thereunder if, before the date of coming into operation of the provision of the scheme, a similar provision could have been imposed under the Restriction of Ribbon Development Act which would give no title to compensation under the latter Act. A claimant's title to compensation may therefore depend on the purely accidental circumstance whether or not a resolution imposing restrictions has been passed under Section 1 of the Restriction of Ribbon Development Act before a town planning scheme becomes final.

256. We are not prepared to make precise suggestions for remedying the many difficulties which arise from Sections 9 and 15 of the 1935 Act in their present form, whether or not taken in connection with the 1932 Act, but we cannot regard the position as satisfactory, and we recommend that consideration should be given to the question of redrafting the compensation provisions of the Restriction of Ribbon Development Act, 1935, though their practical effect will be limited as regards undeveloped land by the carrying into effect of the "development rights scheme" recommended in Chapter IV.

(4) BASIS OF COMPENSATION—PRE-WAR STANDARD OF VALUES

257. In our Interim Report we advised that compensation payable in respect of the (public acquisition or) public control of land should not exceed sums based on the standard of values at 31st March, 1939. We adhere to our recommendation, and in Chapter VII, paragraph 215, we have stated the manner in which the principle of the "March 1939 ceiling" would be applied to compensation for injurious affection.

* House of Lords Reports, 16th May, 1935, col. 924.

† See Appendix III.

CHAPTER IX

BETTERMENT

258. The first requisite for the objective analysis of the subject of the recovery of betterment which we have been asked to make is to define the term "betterment" as it is generally understood in relation to land. We shall then give an outline of the history of the principle of betterment and its application, consider the existing methods provided for its recovery and their defects, examine some of the alternative schemes suggested, and finally put forward our own recommendation for dealing with the matter.

(1) DEFINITION

259. In Palgrave's Dictionary of Political Economy the principle of betterment is defined as being "that persons benefited by public expenditure should contribute to such expenditure to the extent of the increased value of their property, and this not only if the improvement effected by the public authority was carried out for the purpose of conferring a benefit on such property, but also if the resulting benefit was purely accidental, the expenditure having been undertaken for a totally different purpose."

The Royal Commission on the Housing of the Working Classes, in their First Report presented in 1885, in connection with their consideration of the questions of compensation and the incidence of rating, defined the principle of betterment as "the principle that rates should be levied in a higher measure upon the property which derives a distinct and direct advantage from an improvement, instead of upon the community generally, who have only the advantage of the general amelioration in the health of the district."

In 1894 a Select Committee of the House of Lords on Town Improvements (Betterment), appointed "to consider and report whether, in the case of improvements sanctioned by Parliament and effected by the expenditure of public funds, persons, the value of whose property is clearly increased by an improvement, can be equitably required to contribute to the costs of the improvements," stated the principle thus in their Report*: "the principle that persons whose property has clearly been increased in market value by an improvement effected by local authorities should specially contribute to the cost of the improvement."

The most recent authoritative examination of the subject of betterment was made in the Second Report (1918) of the Scott Committee who adopted the definition of the principle of betterment contained in the Select Committee's Report of 1894, and recommended that "as a general principle where the State or a local authority by a particular improvement has increased the value of neighbouring land, the State or local authority should be entitled to participate in such increased value," with a view to securing "a portion of such enhanced value . . . in reduction of the cost of public improvements."†

It will be seen that, whereas the 1885 and 1894 Reports concerned themselves only with increased value arising from improvements effected by local authorities, the Scott Report brought specifically within the principle of betterment increased value arising from improvements by the State, but that all three Reports limited their consideration of the principle to its application to particular improvements carried out at public expense.

The practical application of the principle was, however, extended by Section 58 (3) of the Housing, Town Planning, etc., Act, 1909, to cases where any property is increased in value "by the making of any town planning scheme."

* House of Lords Paper (159) of 1894.

† Cd. 9229, para. 32.

Under a town planning scheme increases in the value of property may arise by reason of improvements executed at the public expense, but they may also occur without any public expenditure at all, *e.g.*, restrictions on density of building will necessitate the use of more land for housing the same population and so bring within the sphere of building values land which would otherwise have remained outside for some time.

The corresponding provision in the Town and Country Planning Act, 1932, Section 21 (the rubric of which is "Recovery of betterment from owners of property increased in value" though the word "betterment" does not appear in the text of the Section) refers to the increase in value of property "by the coming into operation of any provision contained in a scheme, or by the execution by a responsible authority of any work under a scheme", and clearly the principle thus accepted in the case of local (or regional) town planning schemes will be equally applicable to increases in the value of property arising from national planning and reconstruction.

260. To sum up, while the term "betterment" is not specifically defined in any general Act, it may now be taken, in its technical sense, to mean any increase in the value of land (including the buildings thereon) arising from central or local government action, whether positive, *e.g.*, by the execution of public works or improvements, or negative, *e.g.*, by the imposition of restrictions on other land.

The term is not, however, generally understood to include enhancement in the value of property arising from general community influences, such as the growth of urban populations. This gives rise to a difficulty in the strict application of the principle of betterment which is that, if property is enhanced in value by reason of some action, whether positive or negative, by the State or a local authority, the State or the local authority should be entitled to recover the whole or some part of the increase in value, for it is generally a matter of great difficulty to prove the extent to which any increase in value can properly be attributed to the particular improvement or to the operation of the scheme in question. We shall return to this matter later.*

261. It may be convenient here to make preliminary mention of the different methods by which, under various Acts, the whole or part of an increase in value of property arising from the action of a public authority is recoverable by the authority. They are:—

(i) *A direct charge* on the owner of the property bettered. So far as is known no Act provides for a levy of more than 75 per cent. of the "betterment."

(ii) *Set-off* in respect of the betterment against compensation payable for the acquisition of or injurious affection to other lands of the same owner. The amount recovered is of course limited by the amount of the compensation payable and therefore may or may not extend to the whole of the "betterment."

(iii) *Purchase and resale* by the authority of land adjoining a public improvement—usually a road improvement—and likely to be increased in value by it. This is known as "*recoupment*," and, if the property does in fact increase in value, the authority is enabled to secure the whole of the increase.

It should be added that the term "betterment" is sometimes used to describe not only the increase in value of the property bettered but also the contribution in respect of such increase recoverable from the owner whether by direct charge or set-off.

* See para. 291 below.

(2) PAST AND PRESENT BETTERMENT LEGISLATION

262. Two threads in the fabric of the history of this country indicate the application of the principle of betterment :—

- (i) payment *according to* benefits received or dangers avoided, most frequently represented by sewers and drainage rates; and
- (ii) payment (whether by direct charge or set-off against compensation) *in respect of* benefits received by public improvements, *e.g.*, the widening of roads.

The first thread remains unbroken from the Middle Ages to the present day, when it is represented by differential rates under the Land Drainage Act, 1930. The second thread first appears in 1662, but after a few years is broken and does not reappear until about 1830. Thereafter, although it is somewhat tenuous for long periods, there is no real break and it appears in full strength and colour in the London County Council Improvement Acts of the 1890's and in the Town Planning Acts from 1909 onwards.

We do not propose to trace in detail the long and interesting history of betterment in this country, but we think it will be helpful to an understanding of the present position if we indicate the main steps in the development of the principle and its application.

(a) *Sewers, Land Drainage and Sea Defence Acts*

263. The earliest Statute giving effect to the principle of assessment of contributions according to benefits was an Act of 1427 (6 Hen. VI, c.5) appointing Commissioners of Sewers for 10 years to supervise works for sea defence wherever they might be required. Within their respective jurisdictions the Commissioners were authorised to make surveys of the existing walls, sewers, etc., to find out "who doth hold lands and tenements . . . in those parts, or else in any wise have, or may have, the defence, profit and safeguard, as well in peril nigh as from the same far off, by the said walls, etc." and "to distrain all of them for the quality of their lands and tenements . . . to repair the said walls, etc. . . . so that no tenants of lands or tenements . . . which have or may have defence, commodity, or safeguard by the said walls, etc. . . . shall in any wise be spared this." Necessary and convenient statutes and ordinances might be made by the Commissioners according to the laws and customs of Romney Marsh, which even in 1250 were old enough to be described as "ancient and approved."*

The Commissions were continued for successive periods until 1524, and, after a lapse of seven years, they were revived by the Statute of Sewers, 1531, and their jurisdiction extended by this and subsequent Acts to include purely inland sewers. The principle on which the sewage rates were levied under the Statute of 1531 was "that everyone whose property derives benefit from the works of the Commissioners may be assessed to the rates they impose."† Some authorities have doubted whether this is an example of the principle of betterment, but it seems that the sewer rate was in fact in the nature of an improvement rate levied over the area, or, in some cases, on the individual properties, adjudged to be benefited by the sewage works and not necessarily only upon areas or properties for whose benefit the works were deliberately executed. This certainly appears to contain the germ of the principle of betterment.

The powers of Commissioners of Sewers to rate for sewers were extended to land drainage by the Sewers Act, 1833, the Sewers Act, 1841, the Land Drainage Act, 1847, the Sewers Act, 1849, and the Land Drainage Act, 1861. Section 1 of the 1845 Act provided that lands and tenements within the jurisdiction of any

* Edwin Cannon : *The History of Local Rates in England*, 1912, page 10.

† *Soady v. Wilson* (1835), 3 A & E. 248, and cases there cited.

- Court of Sewers "shall contribute . . . in proportion to the benefit and advantage received, or capable to be received, from the said Court, as compared with the lands and hereditaments of the other parishes, townships or places within such jurisdiction."

The Statute of Sewers, 1531, and all other general Acts relating to sewers and land drainage in England were repealed by the Land Drainage Act, 1930, under Section 24 (6) of which Drainage Boards have power, in certain circumstances, to levy "differential rates" (on annual values) in different sub-districts within their district.

There are also numerous cases throughout the country in which local and other authorities are empowered by local Acts to levy special rates on the owners or occupiers of land benefited by sea defence works carried out by the local or public authority. In the majority of cases a maximum rate in the pound based on the rateable value is prescribed and the area in which the charge may be made is defined in the Act which authorises its imposition. In many cases there are two or more zones with varying rates of charge.*

(b) "*Melioration*" under Acts of Charles II

264. Whether the rates described in the preceding paragraph be regarded as instances of the principle of betterment or not, it is clear that the principle is by no means a modern innovation. It was adopted by Parliament as long ago as 1662 in the Act 13 & 14 Chas. II, c.2, though the word used is not "betterment" but "melioration". The Act provided (*inter alia*) for the widening of certain streets in London (and for compensation to owners and occupiers of houses pulled down), and Section 29 reads "And whereas the houses that shall remain standing on the other side of the said street or streets, or behind the said houses that shall be soe pulled down as aforesaid, will receive much advantage in the value of their rents, by the liberty of ayre, and free recourse for trade and other conveniences by such enlargement, it is alsoe enacted" that, if the owners or occupiers refuse or are unable to compound for the same, a jury shall be empanelled to "assess upon the owners and occupiers of such houses, such competent sum or sums of money or annual rent in consideration of such improvement and melioration as in reason and good conscience they shall judge and think fitt".

A similar provision was included in the Act for the Rebuilding of London after the Great Fire, 1667 (18 & 19 Chas. II, c.3)†, and in the second Rebuilding Act, 1670 (22 Chas. II, c.11), in the latter case in relation to projects for deepening the Fleet Canal and making a public wharf along the North side of the Thames between London Bridge and the Temple.

(c) *General Acts from 1831 to 1890*

265. After these Acts of Charles II the principle of betterment seems to have been lost sight of in public legislation (except in so far as the Sewers and other Acts referred to in paragraph 263 above may be regarded as giving effect

* See, e.g., Clacton Urban District Council Act, 1938, Section 35.

† The practical operation of this provision is described by Mr. T. F. Reddaway in "The Rebuilding of London after the Great Fire" at pages 163-7:—

"In actual practice, there were not a great many instances in which it (melioration) could be claimed. Ordinary street widenings did not produce an assessable improvement, and it was only where a back house had been brought forward on to the street, or new frontages had been made, that the principle could be applied."

Although direct assessment of the melioration was provided for, it was usually set off against compensation as a matter of bargain and without specifying the amount set off. It appears that in the case of certain streets appreciable sums were recovered on account of melioration, and, though it is doubtful whether much was received from other parts of the City, it is clear that the principle was maintained.

to it) until the General Turnpike Act for Scotland, 1831, Section 64 or which provided that, in assessing compensation for land taken for making or improving roads, the assessing authority was to take into consideration "all the circumstances of the case and particularly the advantages arising to the proprietors and occupiers by new or altered roads".*

The principle of set-off of benefits against compensation was also included in the Irish County Cess Act, 1836 (Section 134), in relation to road improvements, the Irish Land Drainage Act, 1842 (Section 49), and the Defence Act, 1860 (Section 18).† The Lands Clauses Consolidation Act, 1845, however, contains no provision enabling promoters who have taken land to recover any part of the enhancement of value consequent on the construction of the authorised works to the adjoining lands of the same owner, either directly or by way of set-off against the compensation payable whether for the land taken or in respect of severance or injurious affection,‡ nor is there any such provision in the Acquisition of Land (Assessment of Compensation) Act, 1919.

266. The first modern general public Act which applied the principle of betterment to undertakings of local authorities was the Artizans and Labourers Dwellings Act (1868) Amendment Act, 1879, Section 7(2) of which allowed a set-off by providing that an arbitrator in assessing the amount of the purchase money to be paid to an owner of property should have regard to and make allowance for any increased value accruing in his opinion to other premises of the same owner from the alterations or demolition of the purchased premises. The principle was extended by the Artizans Dwellings Act, 1882 (Section 8(8)) to cases in which the demolition of an obstructive building increased the value of buildings belonging to other owners.

The Artizans Dwellings Acts of 1879 and 1882 were repealed by the Housing of the Working Classes Act, 1890, but their set-off provisions were reproduced in that Act. (Both set-off provisions were re-enacted in the Housing Act, 1925, which repealed the 1890 Act. The 1925 Act was in turn repealed by the Housing Act, 1930, and the provision for recovering any increase in the value of the property of other owners then disappeared. The provision for set-off against compensation of the increase in value of the same owner was, however, retained so far as "improvement areas" were concerned, and a similar provision appears in the consolidating Housing Act of 1936||.)

(d) *London County Council Bills and Acts, 1890 to 1902*

267. The next important chapter in the story is the long struggle, from 1890 to 1895, of the newly-constituted London County Council to establish the right to recover by a direct charge the whole or some part of the increase in value of individual properties arising from public street improvements.

The Council promoted Bills for various street improvements in 1890, 1892 and 1893 each of which contained provisions for a betterment charge, but were unable to secure the acceptance of the principle. They introduced a further

* There was no similar provision in the General Turnpike Act for England, 1822.

† Section 18 of the Defence Act, 1860, provides that in determining the amount of compensation for damage sustained by reason of the works authorised by the Act "regard shall be had to any increase in the extent of the land capable of being brought under cultivation by removal of banks, fences, hedges and ditches, and to any improved drainage and other advantages derived from any such works."

‡ In the case of *Senior v. Metropolitan Railway Co.* (1863), 2 H. & C. 258; 32 L.J. Ex. 225, the railway company endeavoured to set off against the owner's claims for injurious affection that the value of the land had been enhanced by the railway, but Wilde, B. said: "It is the first time such an idea has been brought forward, and I see no reason for giving countenance to it."

|| See para. 270 below.

similar Bill in 1894 and in April of that year the House of Lords appointed a Select Committee on Betterment "to consider and report whether, in the case of improvements sanctioned by Parliament and effected by the expenditure of public funds, persons, the value of whose property is clearly increased by an improvement, can be equitably required to contribute to the costs of the improvement; and, if so, in what cases, and under what conditions Parliament should sanction the levying of such contributions in Local Acts or Provisional Orders." The Committee, after hearing much evidence, reported in July, 1894,* that :—

"The principle of betterment, in other words, the principle that persons whose property has clearly been increased in market value by an improvement effected by local authorities should specially contribute to the cost of the improvement, is not in itself unjust, and such persons can equitably be required to do so. But the effect of a public work in raising the value of neighbouring lands is shown by experience to be uncertain. Whether in any particular case, it is possible for a valuer to pronounce that such an effect has been produced by the completion of any public work is a point upon which the evidence of eminent valuers differs greatly."

The Report went on to recommend certain provisions which should be included in any Bill providing for a betterment charge. The 1894 Bill was amended accordingly, but the Council did not proceed with it. It was reintroduced in the following year and, after some amendments by way of compromise with opponents, it became law as the London County Council (Tower Bridge Southern Approach) Act, 1895.

268. The betterment provisions of the 1895 Act may be summarised as follows :—

(i) The Council were empowered to levy an improvement charge on any properties within a "betterment area" (defined in the Act) which they considered to have been substantially and permanently increased in value by the particular street improvements authorised by the Act.

(ii) The annual improvement charge (which was recoverable as a rent-charge) was 5 per cent. on one-half the increase in value of the individual property as assessed by the Council, and was redeemable at any time by agreement on the basis of 33 years purchase.

(iii) The assessment had to be made by the Council not sooner than twelve months nor more than three years after the completion of the improvement, and the persons affected had a right of appeal to an arbitrator appointed by the Local Government Board.

(iv) Where there were several interests in one property, the charge had to be apportioned, in default of agreement between the persons interested, by the arbitrator who could make the charge dependent on the expiration of any term of years as he deemed equitable. Existing contracts regulating or affecting the incidence of the charge as between the persons interested in the property were to be regarded by the arbitrator, and the Act was not to be deemed to alter their effect.

(v) The rent charge was payable by the occupier who could deduct it from rent so far as he was not liable to the charge.

(vi) Owners, lessees and occupiers of the properties proposed to be charged could require the appointment by the Local Government Board of an independent person to make an "initial valuation" (at the Council's expense) of each property and the freehold and leasehold interests therein as if the improvement had not been contemplated, and any owner or lessee

* House of Lords Paper (159) of 1894.

- dissatisfied with the assessment of the alleged increase in value of his property, could require the Council to purchase his interest in the property at the "initial valuation," but the Council could escape this by abandoning the charge.

(vii) Worsement of property within the "betterment area" could be set against betterment to other property of the same owner.

Similar provisions were included in various Improvement Acts obtained by the Council from 1897 to 1902, including the London County Council (Improvements) Act, 1899, which authorised the Kingsway improvement.

269. As to financial results, a statement* in "London Statistics," Vol. XXV, 1914-15 (published by the L.C.C.) showed that the annual improvement charges receivable as a result of awards made under the Acts of 1895 to 1902 amounted to £1,749 4s. 0d. in all, of which part had been redeemed and part deferred, while the cost to the Council of all "initial valuations" and of second valuations where there had been awards amounted in all to £21,967 9s. 8d. Later volumes of "London Statistics" show that since 1935-36 the amounts of the annual improvement charges collected under the said Acts have remained constant at £1,739.

We were informed, however, that, in the Council's experience the trouble, delay and expense involved in assessing and collecting these charges were out of all proportion to the charges recovered, and since 1902 the Council have relied solely on "recoupment" and "set-off" to recover betterment due to improvements: indeed the Council included "recoupment" provisions in all Improvement Acts from 1897 onwards.

(e) General Acts since 1890 containing "Set-off" Provisions

270. Before dealing with the Town Planning Acts, 1909 to 1932, which were the first public general Acts† since those of the reign of Charles II to provide for the recovery of betterment by a direct levy, it will be convenient to refer to a number of public general Acts from 1896 to 1936, which continued the principle of recovery by set-off which was well established in the Housing of the Working Classes Act, 1890‡. (Some of these Acts also contain "recoupment" provisions.) With the exception of the Unemployment (Relief Works) Act, 1920, all the Acts mentioned in the present paragraph are still in operation.

Under the following four Acts the arbitrator in assessing compensation for land compulsorily acquired thereunder is required to have regard to the extent to which the remaining and contiguous lands and hereditaments belonging to the same proprietor may be benefited by the proposed work for which the land is authorised to be acquired:—

- (i) Light Railways Act, 1896;
- (ii) Development and Road Improvement Funds Act, 1909;
- (iii) Unemployment (Relief Works) Act, 1920, a temporary Act renewed yearly, which expired in 1936; and
- (iv) Public Works Facilities Act, 1930.

Under Section 5 of the Roads Improvement Act, 1925, in determining the compensation payable to any person whose property is injuriously affected by the prescription of a "building line" (i.e., a line beyond which buildings may not project) by a county council or other highway authority, in relation to a street maintained by them, there is to be taken into account any benefit accruing to him by reason of any improvement made or about to be made to the highway.

* Reproduced in Appendix No. 4 to the Second Report (1918) of the Scott Committee, Cd. 9229.

† The L.C.C. Acts were local Acts.

‡ See para. 266 above.

The Public Health Act, 1925, contains two provisions of this nature :—

(a) Under Section 31 where compensation is payable owing to an owner being required to form a new street of a width exceeding by more than 20 feet the maximum prescribed for a new street by any bye-law or enactment in force in the area, the benefits to him by reason of the widening of the street are to be set off against the compensation.

(b) Section 33 gives power to a local authority (i) to prescribe an "improvement line" (*i.e.*, the line to which the street shall at some future date be widened) in relation to a street repairable by the inhabitants at large and thereafter to prevent new building or excavation nearer the centre line of the street than the improvement line, and (ii) to purchase any land unoccupied by buildings lying between the improvement line and the boundary of the street. In assessing compensation for injurious affection by the prescription of the improvement line or for the purchase of land, the Section requires that there shall be a set-off for the benefits to the person to whom compensation is payable by reason of the widening or improvement of the street.

The Restriction of Ribbon Development Act, 1935, contains the following set-off provisions which are more elaborate than the normal clauses :—

(a) In awarding compensation for injurious affection in respect to restrictions under Sections 1 and 2 reserving standard widths, protecting access to roads and prohibiting building within 220 feet of the middle of "classified roads", Section 9(4)(b) provides that "there shall be taken into account any benefit which may accrue to any land in which the claimant has an estate or interest by reason of the construction or improvement, by any other person at any time after the coming into force of restrictions under this Act, upon land adjacent to the land in respect of which compensation is claimed, of any road or of any carriage or other way subsidiary to such a road, or by reason of the coming into force of the restrictions".

(b) Under Section 15 any highway authority may acquire, compulsorily if necessary, any land within 220 yards from the middle of any road the acquisition of which is, in their opinion, necessary for the purposes of the construction or improvement of the road or of preventing the erection of buildings detrimental to the view from the road, and in determining the amount of compensation payable Section 13(1)(a) provides that "the arbitrator shall have regard to the extent to which the remaining contiguous lands belonging to the same person may be benefited by the purpose for which the land is authorised to be acquired and in particular (without prejudice to the generality of the foregoing provisions of this paragraph) shall, in the case of land authorised to be acquired for the widening of any road, set off against the value of the land to be acquired any increase in the value of other land belonging to the same person which will accrue by reason of the creation of a frontage to the road as widened."

By the Trunk Roads Act, 1936, the provisions of the last-mentioned Act (including the set-off provisions) are applied, subject to the necessary modifications, in relation to trunk roads.

Under Section 278 (4) of the Public Health Act, 1936, "where an owner of land claims compensation in respect of damage sustained by reason of a local authority having, in exercise of their powers under this Act, constructed a sewer or laid a water main in on or over his land, the tribunal determining the amount of the compensation shall determine also by what amount, if any, the value to the claimant of any land belonging to him has been enhanced by the construction of the sewer or the laying of the water main, and the local authority shall be entitled to set off that amount against the amount of any compensation awarded."

Under the Housing Act, 1936—a consolidating Act which repealed the greater part of the previous housing legislation—a local authority has certain compulsory powers of purchase of land (including buildings) in relation to “clearance areas”, “redevelopment areas” and “improvement areas” (under the Housing Act, 1930) and of land (including houses) for the provision of housing accommodation for the working classes; and Rule 4 of the Fourth Schedule provides that in assessing compensation for land purchased (except in certain cases where site value only is payable under the provisions of the Act), the arbitrator is to make an allowance in respect of any increased value which, in his opinion, will be given to other premises of the same owner—(a) by the proposed redevelopment in the case of a “redevelopment area”, or (b) in any other case by the demolition by the local authority of any buildings.

(f) *The Town Planning Acts, 1909 to 1932*

271. With the Town Planning Acts, 1909 to 1932, we come to the last and most important stage in the history of the attempts to give practical effect to the principle of betterment. The set-off provisions of various Acts passed between 1909 and 1936 which are mentioned in the preceding paragraph merely followed well established lines, whereas the Town Planning Acts made a bold departure from precedent by extending the application of the principle of betterment from increases in the value of property arising from the execution of particular public works to increases resulting from the operation of planning schemes; the importance of the extension lies in the fact that the provisions of planning schemes are largely negative in character, so that for the first time increases in the value of property arising from mere restrictions on development on other lands were brought within the ambit of charge. The Town Planning Acts are also noteworthy in that they were the first general Acts since the reign of Charles II to provide for the recovery of betterment by a direct charge on the persons enjoying the increase in value.

272. The betterment provisions (Section 58 (3) and (4)) of the Housing, Town Planning, etc. Act, 1909, were very simply expressed. They provided (i) that, on making a claim not less than three months after the publication of notice of approval of the town planning scheme, the responsible authority should be entitled to recover from any person whose property was increased by the making of the scheme one-half the amount of the increase, and (ii) that any question whether the property was so increased in value and in reference to the amount and manner of payment of the charge (whether by instalments or otherwise) should be left to arbitration.

As introduced the Bill provided that the responsible authority should be entitled to recover the whole of any increase in value, but, as a result of representations made during the Parliamentary proceedings on the Bill that this was unfair since part of the increase might be due to private expenditure of the owner, the Government agreed, as a compromise, to limit the amount recoverable to one-half of the increase. It should be observed, however, that in the meantime a provision had been inserted in the Finance Bill, 1909 (afterwards the Finance (1909–10) Act, 1910), under which any capital sum paid to a local authority in respect of betterment should be deducted from any increment value of the land for the purposes of Increment Value Duty. Thus the local authority would get 50 per cent. of the increase in value of the property due to their scheme, and the State would get its Increment Value Duty of 20 per cent. of the remaining 50 per cent. so far as it represented an increase in site value.

The betterment provisions of the 1909 Act were reproduced in Section 10 of the consolidating Town Planning Act, 1925.

273. The betterment provisions of the Town and Country Planning Act, 1932, the present governing Statute, are mainly to be found in Section 21* which may be summarised (with the omission of many detailed qualifications) as follows :—

(i) Where the value of property† is increased by the operation of a provision in a planning scheme, or by a work carried out under a scheme, the local planning authority may, within 12 months (or such longer period as may be specified) of the coming into operation of the scheme, or within 12 months after the completion of the work, as the case may be, claim from the owner of the property 75 per cent. of the increase in value.

(ii) It is provided, however, that, except where a claim for compensation at least equivalent to the amount claimed for betterment has been made, the person from whom betterment is claimed can require the claim to be deferred, and in that event the claim is to be withdrawn, but the local authority can make a fresh claim

(a) on a disposition of the property by sale or lease or tenancy agreement for not less than three years; or

(b) on a change of use of the property, except where the new use is one of a number of defined " agricultural " uses or is similar in character to the previous use; or,

(c) in the case of property used for business or industry, within 12 months from the expiration of 5 years from the date of the original claim, unless a claim upon a disposition or change in use has already been made.

No claim can be made under (b) or (c), in the case of property belonging to a statutory undertaker, and in no case whatever can a claim for betterment be made after 14 years from the date of the original claim.

(iii) Any sum recoverable in respect of betterment may be paid either, immediately or by instalments spread over not more than 30 years, with interest on instalments outstanding. Outstanding instalments may be paid off in one sum, with accrued interest, on 6 months notice.

Under Section 23 disputes as to the right of a local authority to recover betterment and the amount and manner of payment are to be settled by arbitration.

274. It will be seen that the betterment provisions of the 1932 Act differ in two important respects from those in the earlier Acts :—

(a) the proportion of the increase in value claimable by the planning authority is increased from 50 per cent. to 75 per cent.; and

(b) provision is made for owners to require the deferment of claims by the planning authority until the betterment is realised (subject to a time limit).

When the Bill was first introduced in 1931 it was proposed that the planning authority should be entitled to claim the whole of the increase in value. This was criticised on the ground that a 100 per cent. charge would take away from owners all inducement to develop their property to the best use, and the Government agreed to a limitation to 75 per cent. as a compromise. This was the figure in the Bill as re-introduced in 1932 by the new Government and attempts to reduce it to 50 per cent. were unsuccessful.

* Reproduced for convenience in Appendix III.

† It is immaterial that the bettered property is situated outside the area of the planning scheme, see *The King v. Webster, ex parte Young*, 51 T.L.R. 201.

The provisions for deferring claims to betterment were inserted to meet the view repeatedly urged during the debates on both the 1931 and 1932 Bills that it was inequitable to make a levy in respect of betterment until an increase in value had actually been realised on sale, lease, etc., or by a profitable change of user.*

(g) *Modern Local Acts providing for the Recovery of Betterment*

(i) *Recovery by set-off*

275. Many local Acts authorising local authorities to acquire land for street improvements and other public works contain a provision for the set-off against compensation or purchase price of any enhancement in value of other lands of the claimant arising from the execution of the works. Provisions are also included in some local Acts for the set-off of benefits against claims for injurious affection on various grounds such as the prescription of building and improvement lines for roads and streets, the laying of sewers, etc.†

(ii) *Recovery by direct charge*

A few local Acts contain a provision for the recovery by the local authority by direct charge of 75 per cent. of the betterment arising from works done by the authority‡—on the lines of Section 21 of the Town and Country Planning Act, 1932 (see paragraph 273 above).

(iii) *Recovery by recoupment*

Local Acts authorising the acquisition of land required for street improvements commonly enable the local authority to purchase also land adjoining the improvement, so that they can recover by resale, etc., any increase in value occasioned to such land by the improvement.

(iv) *Improvement charges*

Certain local Acts authorise the imposition of a charge to meet the cost of construction and maintenance of sewers or other public works, on properties or areas benefited or assumed to be benefited thereby.

(3) EXTENT OF ACCEPTANCE OF THE PRINCIPLE

276. We are now in a position to recapitulate the general situation in the matter of betterment, but, before doing so, we wish to make clear one important point: in the first thirty-eight paragraphs of this Chapter we are only considering "betterment" in the technical sense which that term has assumed, that is (see paragraph 260 above) any increase in the value of land (including the buildings thereon) arising from central or local government action, whether positive

* When introducing the deferment provisions, the Minister of Health (Sir Hilton Young) explained (House of Commons Reports, 6th June, 1932, col. 1616) that "to make the betterment provisions as just and fair as they can be made two principles are established. The first is this—that when one is putting his land to a certain use, and a scheme comes along and improves its value for another use, he shall not have to pay betterment in respect of its increased value for that other use, unless and until he puts that land to that other use." After all, he is master of his own, and entitled to put his land to what use he likes, and until he puts it to the special use in respect of which the value of the land has been improved, it would be arbitrary and unfair to expect him to pay. The second thing is that it is a sound principle in the payment of any betterment charge that it should not be paid unless and until there is some definite fund out of which it can be paid; in other words, the one who enjoys betterment should not be called upon to pay for it unless he is in actual possession of it."

† The London Squares Preservation Act, 1921, may also be mentioned in this connection.

‡ E.g., the Sheffield Corporation Act, 1939 (in relation to street improvements), and (in respect of increases in the value of undeveloped land only arising from the construction of sewers) the Herts. County Council Act, 1935, and the Herts. County Council (Colne Valley Sewerage, etc.) Act, 1937.

or negative. We are not overlooking the important part played in increasing the value of property by general community influences, such as the natural growth of the population in the locality. The enhancement of value due to this cause does not differ in principle from "betterment" (from which it is technically excluded), and the right of the public to secure at least some part of it cannot be disputed. In paragraphs 308 *et seq.* of this Chapter, we recommend a scheme for periodic levies on increases in annual site value, and in the increases to be measured are included increases, whether due to "betterment" in the technical sense or to general community influences.

As indicated in paragraphs 259 and 260 above, there are two classes of action by central or local public authorities which may give rise to an increase in the value of landed property and as regards which the question of the right of the authority to recover the whole or part of the enhancement in value arises :—

(i) The carrying out of some specific public improvement or works, e.g., street widenings, reconstruction of slum areas, the provision of arterial roads, bridges, parks and open spaces.

(ii) The coming into operation of the provisions in a planning scheme under the Town and Country Planning Act, 1932.

As regards specific public improvements the principle of the recovery of betterment is very widely applied to-day and, at any rate since the Report of the House of Lords Committee on Betterment in 1894*, it has been generally accepted that the principle of appropriating at least some part of the "betterment" to the authority carrying out the improvement is fair and just, and as involving no undue burden or hardship upon the fortunate owner of the land, the value of which has been increased by no action of his own.

As regards the second class of case, property may be increased in value as a result of both positive and negative (i.e. restrictive) action by a planning authority under a planning scheme, e.g., by its increased chance of building use consequent on the prohibition or restriction of development on other land, by the provision or prospect of planned roads and other facilities and by the creation or assured preservation of open spaces and other amenities. It appears to be generally agreed that, in theory, betterment due to the operation of planning schemes is as proper a subject of levy as betterment arising from specific public improvements. Indeed in the debates in Parliament on the various Town Planning Acts, the opponents of the betterment provisions almost invariably stated that they accepted, or at any rate did not dissent from, the general principle of betterment. What they contended was that it was almost impossible to give effect to the principle in connection with planning schemes, particularly because of the elusiveness of, and the difficulty of precisely assessing, the betterment which the Acts sought to charge. This objection was met in some degree by enabling claims for betterment to be deferred in most cases until there is an actual realised increase in value, but, as we shall see later, the total effect of this and other qualifications introduced into the 1932 Act to satisfy the critics is to make the betterment provisions of the Act virtually ineffective for the purpose for which they were designed.

To sum up, the fairness of the principle of betterment commands general acceptance. It is in its practical application that difficulties arise.

277. Before discussing these difficulties, we ought perhaps to deal with an argument which is sometimes advanced against the principle of betterment itself. It is that, where property is increased in value by a public improvement, the local authority is sufficiently recouped by the greater amount of rates received by reason of the increased rating assessment of the property, and that from

* See para. 267 above.

the owner's point of view he would be doubly charged in respect of the increase in value of his property if, in addition to paying or indirectly bearing increased rates, he was required to make a direct contribution in respect of the betterment as such. This argument is, in our view, based on a misconception; the amount levied by the local authority in rates is the amount required by the local authority to meet its lawful expenditure; a rise in the rateable value of a particular rateable hereditament does not give the local authority an additional income, but merely alters the proportion in which individual ratepayers contribute towards the total sum required. Moreover, from the owners' point of view—(i) if there is no betterment charge, an owner retains for himself the whole of the increase in value of his property due to a public improvement, except for the proportion of the increase in annual value which he has to pay in extra rates, and (ii) an owner who increases the annual value of his property from (say) £100 to £150 by his own expenditure has to bear the same additional amount in rates as the owner whose property is similarly increased in value entirely as a result of public expenditure on a public improvement.

The Scott Committee referred to the argument that "in the case of improvements by the State or local authorities the community gains by improvements in the increased returns of rates and taxes, and that this is a sufficient compensation to the community for the cost of the improvements". Upon this they remarked: "It appears to us, however, that the increase in rateable value created by an improvement does not apportion the betterment equally throughout the community. We think it is not in the national interest that persons whose property has been enhanced in value by the expenditure of public money should retain the whole of such enhanced value".*

(4) PRESENT METHODS OF RECOVERY, THEIR DEFECTS AND SUGGESTED ALTERNATIVE SCHEMES

(a) *Introductory*

278. The methods provided under existing Statutes for securing to public authorities the whole or a share of the increase in value of lands arising from public improvements or other action by the authority therefore fall within the following three clearly defined categories:—

(i) *Recoupment*, where the authority responsible for a public improvement are empowered to purchase all or any of the lands in a defined area, adjoining the land taken by them for the purpose of the improvement, with the object of securing to the authority (by subsequent sale, lease, etc.) the benefit of any increase in value of that adjoining land brought about by the execution of the improvement; the authority are thus able to recoup themselves for some part at least of the gross cost of the improvement.

(ii) *Set-off* of the betterment against compensation payable for the acquisition of, or injurious affection to, other lands of the same owner.

(iii) *Direct charge* upon all persons whose lands are increased in value by the improvement, etc.

We shall now consider in detail the working of each of these methods, their degree of effectiveness, their defects and the alternative schemes which have been suggested.

(b) *Recoupment*

279. It should be observed that, although the system of recoupment enables a public authority to recover the whole or part of the increased value given to neighbouring lands by the execution of public works, it is not strictly

* Second Report, Cd. 9229, para. 32.

an application of the principle of betterment. The principle of betterment is that the public authority are entitled to require the owner of land increased in value by their works to pay over in money part of the increase which he thereby enjoys. In the case of recoupment, however, the authority buy outright the land likely to be enhanced in value by their proposed works, paying the owner its current market value, and any profit they are able to make by developing or selling it is entirely theirs; there is, therefore, no need to ascertain how much of that profit is attributable to increase in value due to the particular works and how much to other causes, and the major difficulty of the existing betterment system is thereby avoided.

280. Up to the present the operation of the system of recoupment has been almost entirely confined to cases of the construction or widening of roads, streets and bridges.

There are few general Acts containing provisions under which recoupment is possible*, but the following may be noted :—

(i) Under the Development and Road Improvement Funds Act, 1909, the Minister of Transport (as successor to the Road Board), where he acquires land for a proposed new road, may acquire additional land on either side of the proposed road within 220 yards from its middle by agreement or, under certain restrictions, compulsorily, and is given full power, with the approval of the Treasury, to sell, lease and manage any land so acquired and not required for the new road. We are informed, however, that these powers have never, in fact, been used.

(ii) Section 154 of the Public Health Act, 1875, authorised any urban authority to purchase any premises for the purpose of widening, opening, enlarging, or otherwise improving any street, or (with the sanction of the Local Government Board) for the purpose of making a new street, and the same powers were conferred on county councils by the Local Government Act, 1929. Section 83 of the Public Health Act, 1925, stated that "for the purpose of removing doubts, it is hereby declared that the purposes mentioned in Section 154 of the Public Health Act, 1875, include the improvement and development of frontages or of the lands abutting on or adjacent to any street."

(iii) Under Section 25 of the Town and Country Planning Act, 1932, planning authorities may purchase by agreement or, if necessary, compulsorily any land to which a scheme applies which they require for the purposes of the scheme, and in particular (*inter alia*) any such land "which they require for carrying out the improvement or controlling the development of frontages to, or of lands abutting on or adjacent to, any highway which is repairable by the inhabitants at large, or any proposed highway which is to be constructed wholly or partly at public expense."

On the other hand, under the Lands Clauses Consolidation Act, 1845, promoters are restricted in taking land under their compulsory powers to what is actually required for the undertaking; so that local Acts, incorporating the 1845 Act, do not necessarily enable land beyond the limits of the land actually required for a public improvement to be acquired with the object of obtaining

* The Restriction of Ribbon Development Act, 1935, empowers any highway authority to acquire by agreement or, if necessary, compulsorily, "any land within 220 yards from the middle of any road the acquisition of which is, in their opinion, necessary for the purposes of the construction or improvement of the road or of preventing the erection of buildings detrimental to the view from the road," but there are strict safeguards against the acquiring authority themselves developing and selling for recoupment the lands so acquired.

recoupment, even though the additional land is shown in the deposited plans and described in the book of reference.* Whether such a restriction applies in particular cases depends on the wording of the local Act in question, but it has been held† that the powers entrusted to a public body for the purpose of making public improvements will not be subject to a strict and restrictive construction. Moreover "recoupment" is frequently expressly mentioned in modern local Acts as one of the purposes for which land is authorised to be acquired in connection with particular improvements.

281. So far as London is concerned the Metropolitan Street Improvements Act, 1877, was the first Act to authorise the purchase of substantial areas for recoupment purposes, and the principle was applied in all subsequent street improvements Acts during the life of the Metropolitan Board of Works (i.e. down to 1889). In 1889 the newly constituted London County Council decided in favour of the recovery of betterment by direct charge as against recoupment, and during the period of struggle from 1890 to 1895 before they succeeded in getting the new principle established,‡ the relative merits of the two systems were constantly discussed. As stated in paragraph 269 above, after 1902 the L.C.C. abandoned direct betterment charges in favour of recoupment' (and set-off), but they satisfied the House of Lords Committee on Betterment (1894)§ that in London the operation of the recoupment system up to 1894 had almost always resulted in losses, mainly because it was necessary, as the law§ stood (and still stands), to acquire all the separate interests in the property of freeholders, lessees and occupiers, and also to pay compensation (often very heavy) for trade interests disturbed. The views of the House of Lords Committee on this question were expressed in paragraph (10) of their Report as follows:—

"The Committee have received evidence upon what has been called 'recoupment' Some evidence was given by persons who had actual experience of the operation of such a system, the general effect of which was, that it had not proved successful; but the Committee are not satisfied that it has ever been tried under circumstances calculated to make it successful, inasmuch as no sufficient power has ever yet been given to local authorities to become possessed of the improved properties without buying out all the trade interests, a course which is inevitably attended with wasteful and extravagant expenditure."

The Scott Committee endorsed the views of the House of Lords Committee on this matter, saying "We see no valid reason why promoters should be forced to acquire any interest they do not require, and we therefore recommend that promoters who have power to take land compulsorily for the purposes of recoupment should be authorised to purchase the freehold, or any less interest than the whole, without being required to purchase any other interest in the land, subject to paying compensation for any interest or right injuriously affected."|| This recommendation applied to purchase for the particular purpose of recoupment views which they had expressed earlier in their Report¶ in regard to acquisition of land for the purposes of the undertaking itself. We have already recommended** that with a view to avoiding the payment of

* See, e.g., *Donaldson v. South Shields Corporation* (1899), 68 L.J. Ch. 162.

† See, e.g., *Galloway v. London (Mayor, etc., of)* (1866), L.R. 1 H.L. 34.

‡ See para. 267 above.

§ Section 18 of the Lands Clauses Consolidation Act, 1845, requires notice to treat to be given to all the parties interested in the land to be acquired, other than tenants for a year or from year to year or for a less interest to whom Section 121 applies

|| Second Report, Cd. 9229, para. 58.

¶ *Ibid.*, para. 16.

** See Chapter VI, para. 174, above

unnecessary compensation, the acquiring authority should be allowed to serve notices to treat only in respect of such interests as they may desire to acquire.

282. The Scott Committee considered that "as a general rule the system of recoupment is not desirable because undertakers should not be encouraged to embark on land speculation, or the management of property not required for the purposes of their undertakings", but it appears that they expected that the acceptance of the principle of the recovery of betterment by direct charge, which they recommended, would make the purchase of property purely for recoupment unnecessary. In any event, they agreed that a proper exception to this general rule exists in the case of street improvements where the public interest may require the acquisition of more land than is actually required for the improvement in order to secure the satisfactory development of the frontage to the improvement and so lessen the cost of the improvement to the public. They also recommended that the general rule should not be construed to debar undertakers from obtaining powers to acquire land to reinstate displaced interests or to acquire land which may be required in the future for the efficient development of the undertaking*.

283. In our view purchase for recoupment is a sound principle and the most effective of the existing methods by which a public authority may secure increases in value of property which their activities have created. This is particularly so in the case of street improvements where, by purchasing the "back land" to a sufficient depth, the acquiring authority are able to make good development sites fronting on the new street which they can normally turn to profitable account by using them for the reinstatement of dispossessed owners (thus minimising compensation) or by disposing of them to others.† Indeed, unless enough "back land" is acquired to preserve frontages, the authority will be faced with heavy claims for compensation from traders who, on being set back, have been left with sites of insufficient depth.

Under the Acts, general and local, passed up to now, Parliament has restricted the application of the recoupment principle almost entirely to cases of highway improvements, but we consider that the principle could properly, and should, be extended to the purchase of lands likely to be increased in value by other public improvements (e.g., parks and open spaces) or by reconstruction or replanning. As, however, there is necessarily an element of speculation in purchasing land and properties with a view to recoupment, we think that there should be some Central Government check upon the area which a local authority may desire to acquire for this purpose. We accordingly recommend that local authorities should be given general powers to buy land compulsorily for recoupment purposes, subject to their obtaining the sanction of the Central Planning Authority (who, we assume, would in appropriate cases consult any other Government Department concerned) as regards the area to be acquired, and to their giving proper publication locally of their proposals so that affected parties may have the opportunity of making representations to the Central Planning Authority. It should be open to the Central Planning Authority, if they think fit, to depute a competent official to visit the locality to make informal enquiries into the matter, but in our view no public enquiry should be held, and there should be no right of appeal against the decision of the Central Planning Authority.‡

* Second Report, Cd. 9229, paras. 54-56.

† Striking examples of the profitable exercise by local authorities of recoupment powers under their local Acts are given in the Report of the Town Planning Institute Compensation and Betterment Committee, 1940, pages 6 and 7.

‡ See Chapter IV, paras. 125-126, as to the question of the effect of the "development rights scheme" on the powers of local authorities.

(c) *Set-off*

284. Set-off was first introduced in the General Turnpike Act for Scotland, 1831*, and from the Defence Act, 1860, onwards provision for set-off has usually been made in general Acts dealing with roads, housing and other public works (though it does not appear in the Lands Clauses Consolidation Act, 1845, the Acquisition of Land (Assessment of Compensation) Act, 1919, or the Town and Country Planning Act, 1932), and so far as we can trace no objection to such provisions has at any time been raised in Parliament.

Provisions for the recovery of betterment by set-off are in operation at the present time under the following general Acts :—Light Railways Act, 1896, Development and Road Improvement Funds Act, 1909, Roads Improvement Act, 1925, Public Health Act, 1925, Public Works Facilities Act, 1930, Restriction of Ribbon Development Act, 1935, Trunk Roads Act, 1936, Public Health Act, 1936, and Housing Act, 1936†. Provision for set-off is also made in a very large number of local Acts‡, and has been a common feature of such Acts for very many years past.

Set-off is most common against compensation for the acquisition (or for injurious affection arising therefrom) of lands for the purpose of public improvements or works (either generally or those specifically authorised by the relevant Act), but in other cases it is obtainable against compensation for injurious affection on various grounds not connected with the taking of lands.

The nature of the benefits to be set off varies. Where land is taken for public works or improvements the benefit to be taken into account is the enhancement in value due to the works, etc., of the adjoining lands of the same owner and his lands "contiguous" or "continuous" with such adjoining lands, but in the case of the Housing Act, 1936, the benefit to be set off is the increased value to "other premises" of the same owner without limitation to adjoining or contiguous properties, and in the case of the Public Health Act, 1936, the set-off is the amount by which *any* land of the claimant is enhanced by the construction of a sewer, etc. In the case of compensation payable for injurious affection by the prescription of building or improvement lines, the Acts (including the Public Health Act, 1925) usually provide for set-off of the *benefits accruing to the person* to whom compensation is payable by reason of the street widening, though in certain local Acts providing for the prescription of improvement lines under Section 33 of the Public Health Act, 1925, it is laid down that the set-off shall be of the "*benefit arising from the widening or improvement of the street and accruing to the property in respect of which such compensation shall be payable*".

285. The Scott Committee did not think that promoters should be empowered to claim betterment by set-off, but that was because they considered that "betterment should be specifically sanctioned in each case by the Sanctioning Authority" (which they recommended should be set up) "and assessed in the manner we have recommended" (i.e., directly), and that the principle should be applied only in this way§.

The principle of set-off is obviously equitable, but it suffers from two inherent limitations :—

- (ii) Betterment can only be collected by this method from those land-owners from whom land is being acquired for the particular improvement. It is therefore very much of a hit and miss method of recovery and is unfair as between one owner and another ; thus, on the assumption that

* See para. 265 above.

† See para. 270 above for details.

‡ See para. 275 above.

§ Second Report, Cd. 9229, para. 45.

the widening of a street by 15 feet better the property of all the owners fronting on it, the only betterment which could be recovered by set-off would be that to the property belonging to owners part of whose land is being taken, and the others would retain the whole of the betterment to their property.

(ii) The maximum amount which can be collected even where set-off can be made is the actual cost to the acquiring authority of the particular parcels of land which are being acquired, and the whole of the balance of the betterment due to the improvement is retained by the owners. (It is this latter consideration which often leads owners to make free gifts of land for road improvements.) Consequently even where betterment is obvious and immediate, the amount of it recoverable by the authority is usually only a small proportion of the total.

But in many cases there will (as past experience has shown) be the practical difficulty of proving in anticipation the increase which the improvement will effect in the value of the land retained by the owner, and the tendency will therefore be for a low figure for set-off to be accepted by the acquiring authority in negotiation or taken into account by the arbitrator in awarding compensation if the matter goes to arbitration. There is the further difficulty that, once there has been a set-off for betterment of however small a figure, this kills for ever all chance of recovering any further betterment beyond that figure accruing to the land in question from the particular improvement; thus set-off results in franking at the outset in perpetuity for probably a small figure what may be very valuable in the future.

286. In view of these obvious imperfections in this method of recovering betterment we deemed it desirable to take evidence as to the extent to which it had proved effective in practice. We accordingly asked certain important cities for information as to their experience of the working of the set-off provisions in their local Acts. Their replies were all to the effect that, although the right of set-off constituted a general bargaining factor of greater or less weight, no specific sums could be pointed to as having been recovered in respect of betterment by this method and that they preferred, and in fact operated wherever possible, the method of recoupment. We may add that this evidence confirmed the estimate of the position which some of the members of our Committee had formed as a result of long experience in matters of compensation.

There is another important factor to take into account in considering the place of set-off in the present system for recovering betterment. The right to set off betterment against compensation payable on the public acquisition of land is not universal; it is only operative under general Acts in the case of acquisitions for certain specified purposes, and under local Acts in the case of particular properties or areas which have to be defined in each case in relation to the land required for the execution of the authorised improvements. We have already mentioned that there is no provision for set-off in the Acquisition of Land (Assessment of Compensation) Act, 1919. Suggestions have been made to us that a general provision should be inserted in the 1919 Act for immediate set-off of betterment against compensation payable on acquisition, and, if the principle of set-off is to be maintained, we think there is much to be said for this course.

287. We hesitate to suggest any interference with the application of a principle which is *prima facie* equitable and which has found a place in many Statutes over a period of more than a century, but we have reached the conclusion that the balance of advantage is against the use of this method of collecting betterment and that it should be abandoned, provided the purposes it is designed to serve may be better achieved by other means.

On the one hand it is doubtless true that where the right of set-off exists it is of some value as a bargaining factor in reducing compensation. But on the other hand it must be recognised that set-off has not been very effective in practice, being casual in operation and unproductive financially, very largely because the necessity of making an immediate "once for all" estimate of potential benefits tends to the acceptance of a small figure whereas in course of time a very considerable increase in value may result.

The question is, therefore, whether any effective substitute can be found for the system of set-off. We think the situation can be adequately met by extended powers of recoupment coupled with the proposals which we make later in this Chapter* for a periodic levy on increases in annual site value as revealed by quinquennial assessments. We think that public authorities would not be unwilling to forgo the uncertain chances of an immediate cash set-off (probably small in amount) if, by waiting, they could be sure of an annual levy on increases in annual site value which can be shown to have actually arisen.

288. We accordingly recommend that, from the date that our scheme for a periodic levy on increases in annual site values is established by Act of Parliament, all statutory provisions for set-off against compensation whether on acquisition or for injurious affection should cease to operate, except in so far as they relate to increases in the value of undeveloped land outside "town areas" while it remains undeveloped.†

If, however, our "periodic levy" scheme is not accepted and the system of set-off is to be maintained for what it is worth, we think that steps should be taken to extend the scope of its operation. In that event, we recommend the insertion in the Acquisition of Land (Assessment of Compensation) Act, 1919, of a general provision for setting off betterment against compensation payable on the compulsory acquisition of land by public authorities for whatever purpose. All existing provisions in general and local Acts for set-off on acquisition would have to be repealed or regarded as modified by the new general provision. Similarly, we think that, if our "periodic levy" scheme is not adopted there should, in principle, be a general statutory provision for the set-off of betterment against compensation for injurious affection in all cases where there is no land taken, e.g., by reason of the prescription of building or improvement lines, with a consequent repeal or modification of all existing provisions of that nature. The drafting and administration of such a general provision might, however, present considerable difficulties in view of the number of different grounds on which compensation for injurious affection is payable under existing general and local Acts and the varying nature of the benefits which could properly be taken into account,‡ and we doubt whether the amount of betterment recovered under a general provision for set-off against compensation for injurious affection would very much exceed that recoverable under the various particular provisions of this nature at present in force.

We wish to emphasise that, in making this conditional recommendation, our only point is that something is better than nothing.

(d) *Direct Charge*

289. Apart from a few local Acts§ which contain provisions for the recovery by direct charge of 75 per cent. of the betterment due to street improvements,

* See paras. 308 *et seq.* below.

† As to such undeveloped land, see Chapter IV.

‡ See para. 284 above.

§ See footnote to para. 275 (ii) above.

sewers, etc. on the lines of Section 21 of the Town and Country Planning Act, 1932, that Act is at the present time the only Act providing for the recovery of betterment by direct levy.*

We have already summarised the provisions of Section 21 of the 1932 Act† in paragraph 273 above, but for convenience we recapitulate their main features :—Within a certain period after a planning scheme comes into operation, the planning authority may claim 75 per cent. of the increase in value of any property (within or outside the area of the scheme) arising from the operation of any provision in the scheme or from a work carried out under the scheme. Unless, however, the benefiting owner has made a claim for compensation in connection with the scheme at least equal to the amount of betterment claimed, he may require the claim for betterment to be deferred until he has disposed of the property by sale or lease or has changed its use and has thus realised the enhanced value, but no claim for betterment can be made after 14 years from the date of the original claim.

290. The Section imposes two obvious limitations on the recovery of betterment, assuming its existence to have been proved: (i) only 75 per cent. of the increase in value can be claimed, and (ii) the opportunity of recovery is normally postponed until the property is disposed of or its use is changed, and ceases altogether after 14 years.

(i) Suggestions have been made to us that the whole of the proved increase in value should be collected, but we agree with the view generally held that if the whole of the increase were taken and none were allowed to accrue to the owner, private initiative in the development or redevelopment of property would be discouraged.

(ii) The view is widely held that as a matter of principle betterment should not be recoverable until it has actually been realised. This view was strongly urged during the debates on the Town and Country Planning Bills of 1931 and 1932, and effect was given to the principle by the extremely complicated provisions of Section 21 of the 1932 Act. We appreciate that as a practical matter it may be difficult to obtain payment in respect of betterment until the owner has it in hand, but if the principle of deferment be accepted, we see no logical reason for the imposition of a time limit for recovery.

291. What really makes the betterment provisions of the 1932 Act largely ineffective, however, is that, before a charge can be made in respect of a particular property, it is necessary (i) to prove that it has increased in value owing to the operation of a particular provision in a planning scheme or to the execution of a particular work under a scheme, and (ii) to calculate the extent to which the increase is due to the particular circumstance.

In the first place, it is a very difficult matter to determine the extent of the area within which values have been influenced by a particular provision or work; indeed, as we have shown earlier in this Report‡, although the effect of a provision in a scheme prohibiting or restricting development on a particular area of land is to shift potential development value elsewhere, it is impossible to say with any certainty to which other areas or individual properties the benefit has gone.

Secondly, even where there may be good ground for supposing that a property has been beneficially affected by a particular planning provision or work, it will be very difficult to prove the extent to which any increase in value

* Improvement charges for special objects (*see* para. 296 below), though based on benefit or assumed benefit, are not primarily directed to the recovery of betterment.

† Section 21 of the 1932 Act is reproduced in full in Appendix III.

‡ *See* paras. 26 and 27.

can properly be attributed to the provision or work as distinct from what is due to other circumstances, such as expenditure by the owner, natural growth of the population in the locality, improved transport facilities, etc.—and that difficulty will become greater the longer the claim has to be deferred. The fact of the matter is that, while the dissection of any increase in value with a view to ascertaining what portion is due to a particular planning provision or work presents no difficulty in regard to giving expression to it in a Statute, it presents practical problems of valuation which are largely matters of conjecture and of personal opinion and which obviously afford a fruitful field for disputes. In practice, doubts are resolved in favour of the landowner.

There is a third point to be borne in mind. In order to determine the amount of betterment to be claimed, there must be a basic value from which an increase may be calculated. Under the Act the material date is the date on which the provision which gives rise to the claim comes into operation; but it is to be expected that, as the planning proposals will have been known long before the coming into operation of the scheme (for the preparation of a planning scheme normally takes several years), the value of the land will have risen in expectation of the proposed redevelopment, and possibly have been actually realised, before the scheme comes into operation. In so far as that happens, no betterment can be claimed since the increased value is not due to the *coming into operation* of a provision in the scheme.

292. We understand that, so far as can be traced, there are only three cases in which betterment has been paid in cash under the Town Planning Acts, and they were all under the Acts of 1909 and 1925 which provided that claims for betterment could be made on a scheme coming into force, without any provision for deferment. We were further informed by the Ministry of Health that no betterment has yet been collected in cash under the 1932 Act, though on a few occasions a claim for compensation has been countered by a claim for betterment. It is true that very little experience has yet been gained of the working of the betterment provisions of the 1932 Act on account of the intervention of the war and the fact that "owing to unavoidable delay the Act of 1932 has really only been in effective operation since 1935"*, but, in view of the general difficulties we have described (which are not likely to be lessened by the complicated provisions for the deferment of claims), we agree with the Barlow Commission that "the realisation of substantial sums by way of betterment cannot safely be expected."† Indeed successive Ministers of Health, speaking on the 1931 and 1932 Town Planning Bills, particularly emphasised the point that the principal value of the power to claim betterment lay in its use in negotiation, and that little had been or was likely to be obtained in cash.‡

293. To sum up, while we unhesitatingly accept the principle of "betterment" as being a fair one, we are convinced that the segregation of "betterment" which is particularly ascribable to planning is impracticable. Even in peace time there are almost insuperable difficulties in isolating the effects of planning ordinances in the complex of influences causing changes of value; and in the course of and after the present war these difficulties will be accentuated. Vast displacements of industry, commerce and population have occurred through evacuation (spontaneous as well as State-organised), bombing, the building of munition factories, the change-over to war production, and the

* Mr. Hudson (Parliamentary Secretary to the Ministry of Health) in a debate on National Parks, House of Commons Reports, 9th December, 1936, col. 2097.

† Cmd. 6153, para. 243.

‡ Mr. Greenwood on Second Reading of the 1931 Bill, House of Commons Reports, 15th April, 1931, col. 203, and Sir Hilton Young on Committee Stage of the 1932 Bill Standing Committee A Report, 26th April, 1932, col. 696.

"concentration" of industry; but the effects or temporary changes caused by the war and war-policy cannot be disentangled from those due to broad continuing economic tendencies."

We have therefore come to the conclusion that a new approach to the problem is necessary which will not require an analysis of the causes contributing to an increase in value of property, and to this end we put forward proposals later in this Chapter† for a periodic levy on a fixed percentage of increases in annual site values as revealed by quinquennial assessments from whatever cause such increases arise other than by certain recent expenditure of the owner.

We accordingly recommend that, in view of the difficulties inherent in the present system of collecting betterment under the Town and Country Planning Act, 1932, and its failure to produce practical results, that system should be abandoned in favour of our scheme for a periodic levy on increases in annual site values. We make one qualification to this recommendation: our "periodic levy" scheme only applies to increases in annual site value occurring after land has been developed; any provision in any Act (e.g. the Herts County Council Act, 1935, and the Herts County Council (Colne Valley Sewerage, etc.) Act, 1937*) for the recovery of betterment in respect of increases in the value of undeveloped land while it remains undeveloped should therefore remain in force for what it is worth.

(e) *Alternative Schemes Considered*

294. Before explaining our own proposals for a periodic levy on increases in annual site value, it will be convenient to consider certain alternative schemes which have been put forward for the recovery of at least some part of increases in value due to the action of public authorities or of what is commonly described as "unearned increment."

We should say here that we do not conceive that it is within our province to consider site values in reference to the problem of rating and taxation as such; what we are concerned with is *increases* in the value of land.

As indicated in paragraph 291 above, among the reasons why the existing betterment provisions are so difficult to administer is the virtual impossibility of precise assessment of betterment owing to the difficulties of ascertaining the extent of the area within which values have been influenced by a particular improvement, etc., or the extent to which any increase in value of property can properly be attributed to the particular improvement, etc. The only practical way out of the difficulty seems to be (i) to make an arbitrary assumption as to the area within which benefit arises and/or (ii) to take an arbitrary proportion of the total increase in value of the property, and most of the alternative schemes before us are based on one or both of these expedients.

Defined Betterment Areas

295. The Scott Committee put forward a detailed scheme‡ for the recovery of part of the increase in value of land due to particular improvements carried out by a public authority. The salient features of the scheme were as follows:—

The public authority when applying to the Sanctioning Authority (which the Committee proposed should be set up) for compulsory powers of acquisition of land should schedule the limits of the area in respect of which it was proposed to claim betterment in respect of any property. Valuations of any property in the area before and after the improvement should be made by the Inland Revenue Valuation Department, who would then have to consider how much of any increase in value over the initial valuation was due to the improvement in order to arrive at the capital

* See paras. 308 *et seq.* below.

† See footnote to para. 275 (ii) above.

‡ Second Report, Cd. 9229, paras. 32-46.

"betterment", of which the local authority were to be entitled to claim 50 per cent. This was to be a capital charge on the property; if the benefiting owner did not wish to pay this sum at once he was to have the alternative of paying an annual charge (which was to be redeemable) of 5 per cent. on the capital charge.

It will be seen that, in substance, the method for collecting betterment favoured by the Scott Committee was that followed by the London County Council Improvement Acts from 1895 to 1902*, i.e., a prescribed betterment area within which individual properties are to be looked at for betterment, valuation of each property before and after the improvement, a capital charge on the property of 50 per cent. of the amount of the betterment, and an annual charge on the property (which might be redeemed) representing interest on the capital charge.

Suggestions on similar lines have been made to us, but the experience of the L.C.C. in administering these provisions, which led to their abandonment after 1902 by reason of the trouble, delay and expense involved†, is not encouraging, and we are unable to recommend the adoption of this method. It is to be observed that in schemes of this kind the second valuations are to be made within a limited period after the improvement is carried out, and therefore in many cases before the actual effect on values of the improvement has revealed itself.

Improvement Rates or Charges for Specific Improvements

296. A number of bodies have suggested that local authorities should be given power to impose special rates or charges for the purpose of securing contributions towards the capital cost and maintenance expenses of particular public improvements such as the acquisition and development of open spaces, the construction of roads, sewers, sea defence works, etc. At present the only way in which a local authority can obtain power to levy a special improvement rate is by promoting a local Act, and, put in its clearest form, the suggestion is that "there should be a general statutory provision authorising the inclusion in planning schemes of express provisions for the zoning of areas specially benefited by a particular improvement and the imposition on the owners or occupiers of land or buildings in those areas of a liability to contribute, for a period to be fixed by the scheme, a fixed sum yearly or half-yearly towards the cost of the improvement, the zones and the amount of the rate to be fixed by the scheme itself and the liability to commence when the improvement is completed".

It is suggested that the application of this principle in planning schemes would provide the best solution of any difficulties which have been experienced in collecting betterment or which may be apprehended, and the following precedents are cited as showing that Parliament has recognised the principle of an improvement rate in respect of betterment resulting from improvements of a varying character:—

(i) Wimbledon and Putney Commons Act, 1871, which was passed for the preservation of Wimbledon Common and the purchase of the rights of the Lord of the Manor. The Act provided that, in order to meet the interest on the purchase money and the cost of maintenance, a special annual rate (redeemable by agreement) should be levied on the occupiers of dwelling houses within four prescribed zones, the rate in the £ in the several zones varying with the distance of each from the Common.

(ii) The Maldens and Coombe Urban District Council Act, 1933. This Act provided that, in order to meet the cost of purchasing two neighbouring

* See summary of the betterment provisions of the L.C.C. (Tower Bridge Southern Approach) Act, 1895, in para. 268 above,

† See para. 269 above,

golf courses, an improvement rate (redeemable by agreement) should be imposed for 21 years on occupiers of buildings within three surrounding zones which were presumed to benefit by the preservation of the open space, the rate in the £ varying according to the distance of the zones from the courses.

(iii) Coventry Corporation Act, 1936, repealing and re-enacting an Act of 1930. In order to defray the expenses of constructing a bye-pass road, the Act imposed on the owners of lands (other than agricultural land or land used for transport purposes) within a defined improvement area a charge of 30/- per foot frontage of their lands to the bye-pass road. (Incidentally it may be noted that the Act provided that the fact that betterment in respect of any of the adjoining lands might have been set off against compensation on the acquisition of other property should not exempt the owners of such lands from the special charge.)

We were also referred to:—

(iv) The numerous local Acts under which local and other public authorities have been empowered to levy improvement rates on the owners or occupiers of land benefited by sea defence works carried out by the authority, two or more zones with varying rates of charge being prescribed in many cases.

(v) The provisions which, in accordance with the recommendations of a Joint Committee of both Houses of Parliament whose Report was issued in June, 1936, have since that date been included in local Acts for contributions by frontagers in the cases of sewers constructed (a) in public highways if the sewer will increase the value of their premises and (b) in or under land which has subsequently become a street where there has been no previous set-off against compensation on account of the enhancement of the value of the land by the construction of the sewer.

(vi) The Private Street Works Act, 1892, under which the cost of making up private roads is normally apportioned against the premises fronting on the road according to the respective lengths of frontage, on the footing that this represents the respective benefits to the frontagers.

We have also considered—

(vii) The system of "special assessments" which has been in operation for many years in the United States of America. "Special assessments are compulsory contributions levied under the taxing or police power [i.e. they must be for the purpose of promoting health safety, morals and the general welfare] to defray the costs of specific public improvements or public services undertaken primarily in the interests of the public. . . . They are apportioned according to the assumed benefits to the property affected by the improvements or the assumed benefits to individuals or corporations by reason of the services performed".* This system has proved very profitable in the past, but we understand that it is not now used so freely in the United States as it was formerly, probably for the reason that it is best adapted to new and rapidly growing townships where increases in land values are spectacular and a tax on increment is readily accepted ;

and

(viii) The system operating in parts of the British Commonwealth (e.g. New South Wales) under which an improvement rate is levied on the capital value of all the land in a particular area which is assumed to benefit by the construction of particular works. The Sydney Harbour

* "Financial Statistics of Cities, 1936", published by the United States Department of Commerce. The operation of special assessments in Kansas City is described in the Barlow Report, Cmd. 6153, paras. 264-6.

Bridge was a notable instance. As the construction of the Bridge would mean that people living on the north side of the Harbour would save a great deal of time in getting into Sydney, the Sydney Harbour Bridge Act, 1922, imposed a levy of $\frac{1}{2}d.$ in the $\pounds$ on the "unimproved capital value" of all land north of the Bridge within a radius of 15 miles from the Bridge.

297. In view of the considerable support in the evidence before us for the extension of the principle of special improvement rates, we have given this suggestion particular consideration.

The idea of special improvement rates is not without merits, but we see difficulties in making the power to levy such rates one of general application. The system of "special assessment" works reasonably well in connection with the making up of private roads under the Private Street Works Act, 1892, but in that case the benefit to the frontager is in most instances, though by no means always, obvious, and the rough and ready method of assessing by reference to the length of frontage is usually for all practical purposes fair enough. The benefit which the creation of (say) a public park, confers on surrounding properties is a much more elusive matter, and the fixing of an area of special benefit in such a case which would be accepted as fair would be no easy matter. Similar difficulties would arise in the case of each public improvement for which it was sought to levy a special rate; indeed the benefits from a specific improvement might extend outside the local authority's own area beyond which it could not levy a rate. Even if the difficulty were overcome of estimating what areas or zones would be differentially benefited, the fact remains that the various classes within these zones will receive very varying benefits and not a flat rate of benefit. There is the further objection that any wide extension of the system would result in a return to the old unsatisfactory state of affairs of many separate rates in the one local authority's area, whereas the modern tendency, which has much to commend it, is to say that, if a local authority undertakes a specific improvement, the whole of the authority's area is benefited and not a specific part of it only, and that the cost should be met out of the ordinary rates.

In any event, however, the whole necessity for the imposition of special improvement rates should disappear if our proposals* are adopted for a periodic levy on increases in annual site value which would catch any increase in value as and when it occurred anywhere, and we are accordingly unable to recommend that the power of imposing special improvement rates should be made of general application. We must not, however, be taken as suggesting that there should be any interference with such charges as sewerage and drainage (including sea defence) rates or those for private street works.

298. In the present connection it is of interest to refer to an attempt which was made to introduce a "special improvement charge" clause into the Bill which became the Town Planning Act of 1932.

In view of the difficulty experienced in proving and assessing betterment under the provisions of the existing Act (Town Planning Act, 1925) the question was raised whether, in the case of public improvements, such as parks or roads, which were known to benefit neighbouring properties the local authority should not be empowered to levy a part of the cost on benefiting owners. Accordingly a clause was included in the Bill on its first introduction in 1931 empowering a local authority to charge the whole or part of the expenditure incurred in carrying out or securing a public improvement in an area in which a planning scheme was in operation, upon owners of property which had been increased in value by reason of the improvement. The local authority were to determine the shares in which the amount to be charged on owners was to be apportioned

* See paras. 308 *et seq.* below.

between the owners according to the degree of benefit derived by the several properties from the improvement, and provision was made for appeal against the proposed charge. The amount charged, together with interest, was to be payable by 30 annual instalments, which could be commuted. There was a wide definition of "public improvement", and "expenditure" in relation to any improvement was defined to include compensation paid by the local authority in connection with the provision of, or in securing, the improvement. On the Second Reading of the Bill, Mr. Neville Chamberlain said :^{*} "I offer no objection to the clause in principle ; I agree that it is quite reasonable, and I do not think any opposition will be offered by owners of land to a provision which asks them to make some contribution to public improvement which directly benefits them. You must, however, limit the amount of the charge which can be put on owners to at least the amount of the betterment they have received". A new clause was then substituted giving effect to the principle that any such charge should be based on the amount by which the land of the individual owner could be shown to have been increased in value by the public improvement, and the amount recoverable was limited to 75 per cent. of the betterment.

In the Bill as reintroduced in 1932, after the change of Government, the improvement charges clause provided for a charge not exceeding 75 per cent. of the increase in value of each individual property bettered by a public improvement, with a proviso that "the total amount to be recovered by the authority from persons whose properties are increased in value shall not exceed the amount of the expenditure incurred by the authority in providing the improvement", and the deferment provisions† of the betterment clause were applied.

The Clause was limited (as it had been throughout its history so as to avoid extending the scope of the Bill) to public improvements effected in *an area covered by a town planning scheme*, but, when the Clause came up for consideration in Committee, it was suggested that the linking of the Clause with planning was purely artificial and that it had no proper place in the Bill at all. It was also asked why, if the principle was sound, it was limited to areas which were the subject of a scheme and why it was not made general. The Minister of Health (Sir Hilton Young) replied : "The justification for its presence here as part of the Town Planning Bill is that it may be a convenience to have, as part of your town planning code, provisions relating to an alternative method of procedure which has certain objects which are similar to and suitable for town planning . . . Nevertheless it is no part of the essential structure of town planning", and he agreed to drop the Clause.‡

Proposal of Mr. A. Noel Mobbs

299. The proposal which Mr. Mobbs put to the Barlow Commission is summarised in their Report as follows :—

"In order to provide finance for reservation of open spaces and playing fields, a charge of 5% might be made on the cost of new buildings in areas zoned for industrial development and housing in connection therewith. All new buildings (factories, houses, shops and places of amusement) would be subject to the charge, the collection of which might be left to the local authorities concerned. The author claims that the funds so obtained, coupled with the income derived from the use of open spaces, would provide a substantial sum towards interest and amortisation on open space finance."§

^{*} House of Commons Reports, 15th April, 1931, col. 222.

[†] See para. 273 above and Section 21 of the Town and Country Planning Act, 1932, in Appendix III.

[‡] Standing Committee A Report, 28th April, 1932, cols. 746-752.

[§] Cmd. 6153, para. 269.

In support of the proposal it can be urged that provision of open spaces is an essential part of modern urban development, and that it is reasonable that the development which makes them necessary—the erection of industrial and business premises and dwellings—should be charged with the cost of development. But, carried to its logical conclusion, the cost of many more communal services, or at any rate of the land required for them, would have to be included as a charge on development, and the extension of the proposal along these lines has, in fact, been suggested. We do not think the resultant uneven distribution of the burden of financing public improvements of benefit to the whole community could be justified. Even within the limited scope of the original proposal it seems inequitable that the impost should be limited to new development, and that owners or occupiers of existing buildings (who might equally benefit from the improvement) should be let off from paying their fair share. Further, unless new working-class dwellings were exempt from the charge, it might well operate to increase the heavy financial burden already borne by the community on account of the provision of such houses, or else housing standards would have to be lowered. For these reasons we are unable to recommend the adoption of the proposal.

300. We come now to schemes which, accepting the premise that it is impossible to show what part, if any, of an increase in land value is attributable to any particular cause, endeavour to secure “unearned increment” for the community by levying an arbitrary percentage of the whole of any revealed increase in land values.

The only general levy of this nature ever imposed in this country was the

Increment Value Duty under the Finance (1909-10) Act, 1910.

301. This was a duty of £1 for every complete £5 of increment value accruing after 30th April, 1909, and was payable on the following occasions:—

- (i) On the occasion of (a) any transfer on sale of the fee simple of the land or of any interest in the land or (b) the grant of any lease of the land for a period exceeding 14 years;
- (ii) On the occasion of the death of any person where the land in question was comprised in the property passing on his death and was liable to death duties;
- (iii) Land held by corporate or unincorporate bodies or on permanent trusts in such a way as not to be liable to death duties—in the year 1914 and every subsequent fifth year.

Increment value was defined as “the amount (if any) by which the site value of the land, on the occasion on which increment value duty is to be collected . . . exceeds the original site value of the land as ascertained in accordance with the general provisions . . . of this Act as to valuation”.

The provisions of the Act were extremely complicated, a valuation of all land in the country had to be made and no fewer than four different values of any parcel of land had to be ascertained for the purposes of the impost, viz.:—

- (i) Gross value, i.e. the value of the unencumbered, unrestricted fee simple.
- (ii) Total value, i.e. the value of the fee simple, subject to fixed charges, restrictions, easements, etc.
- (iii) Full site value, i.e. the value of the site in fee simple unencumbered and unrestricted, but divested of buildings, etc., trees, bushes and other things growing thereon.

(iv) Assessable site value, i.e. the total value, minus :—

(a) The value attributable to buildings (viz. the difference between gross and full site values).

(b) Any part of the total value proved by the owner to be due to capital expended, works executed, etc. by the owner or any person interested in the land, except in the case of agricultural improvements, unless they had also improved the value for purposes other than agricultural.

(c) Any sum necessary to be expended in order to divest the land of buildings, trees, etc.

Prolonged and organised opposition to this and the other duties on land values imposed by the Act and the effects of a large number of judicial decisions upon its provisions contributed to making the Act administratively unworkable. Legislation amending the duties was introduced in the Revenue Bills of 1913 and 1914, both of which were dropped, the latter owing to the outbreak of war, but Sir Percy Thompson, a Commissioner of Inland Revenue, stated in evidence to the Select Committee on Land Values, 1920*, that "the legislation proposed in the Revenue Bill of 1914 would be in itself quite insufficient to render the completion of the valuation practicable and to enable the duties to be worked." The duties were ultimately repealed in 1920 in circumstances which are well known.

We do not think it would serve any useful purpose to examine this scheme in detail, though we shall have occasion to refer to certain of its difficulties when explaining our own proposals.

Proposal of Sir Raymond Unwin

302. The late Sir Raymond Unwin put before the Barlow Commission a scheme for taxing realised increment on land values which is summarised as follows in their Report† :—

"Probably the fairest, the most simple and least drastic method would be to raise a fund by taxing owners of land values on all realised increment to an extent sufficient to meet the compensation payable to individuals for the loss of prospective value entailed by planning. It would be a fair method as between landowners and the community and would do rough justice among the owners, as only those who realised increment would contribute, while those who suffered a loss would be compensated out of the fund so contributed. Such a method could be administered by the owners themselves: so long as all the compensation for transferred prospective values was raised and distributed amongst those who suffered loss, the details could be left largely to the owners to assess

Some difficulty in assessing increment might arise from the necessity for having a datum line, but in fixing a datum line a good deal of discretion might be left to the landowner. If he fixed it too low the valuation would be quoted against him on sale of his land for any public purpose and if too high, he would have less increment to pay but higher rates and death duties.

A heavy tax on increment would probably not be necessary, but the tax would have to be collected over a large area of the country."

Although expressed in terms of a tax on all realised increment, the scheme only has the limited objective of dealing with shifts of value due to planning by raising sufficient money from owners within a definite, though large, area

* Cmd. 556. Owing to differences of opinion as to the interpretation of their terms of reference, the Committee made no Report.

† Cmd. 6153, para. 267.

to compensate such of their number as suffer a loss of prospective value. Moreover the suggestion is that the administration of the scheme should be largely left to the owners themselves, including the fixing of a datum line from which the increment is to be measured. Apart from other difficulties, the scheme would, in our view, break down for the same reason that the existing betterment provisions have failed, that is, the virtual impossibility of determining the area or individual properties within or to which the values have shifted.* We are, therefore, unable to regard the scheme as offering a solution of the problem with which we are faced.

Proposal of Sir George Courthope

303. Col. Sir George Courthope, M.P., then President of the Central Land-owners' Association, made the following suggestion in a lecture to the Council for the Preservation of Rural England in March, 1931†:—

"We say there are three principles which must be embodied in any scheme of this kind [i.e. for a betterment tax] if it is to be accepted by the owners generally as equitable, and nothing will work unless it is accepted as equitable.

(1) The fund into which betterment is paid, and from which compensation is paid, must be local. If you are collecting money from local betterment you must keep it for local compensation.

(2) Betterment must only be payable on realisation. In other words, only when the land becomes ripe for development, and can be sold by the owner for building, should he be liable to pay the betterment tax.

(3) If this collection of betterment is to be fair you must start from a definite datum line. Agricultural land in the immediate neighbourhood of a growing town has a definite accommodation value. We suggest that this should be capitalised, giving a datum line as capital value per acre. When it is realised we say it is perfectly equitable that the owner should be asked to pay as betterment a substantial portion of the excess of the price realised over this datum line."

This proposal was apparently limited to increases in value arising when agricultural land is developed for building, and we need not comment upon it in view of the "development rights scheme" recommended in Chapter IV.

Levy on Increase in Value on Grant of Licence to develop, etc.

304. One scheme submitted to us differs in important features from any of those we have so far referred to. It is linked with a suggestion for a system of public control of development involving the placing of a statutory restriction on all land whereby it would be unlawful, without a licence from the planning authority, to erect any building or execute any works of development or redevelopment, or to make any change in the use of land. In practice a licence would only be granted on proof of a bona-fide intention to develop or redevelop land, or to change its use, in conformity with planning considerations and then only if the proposals were immediately practicable and there was a demand for such development. When it was desired to develop or redevelop any land the prospective developer would, as at present, submit his proposals to the landowner and make his bargain as to the price to be paid for the land. That price having been fixed (in the knowledge of both parties that a betterment levy would be payable out of the purchase price), the landowner would submit the proposals to the planning authority accompanied by an application for a licence to develop.

* See para. 27 above.

† Quoted in the Report of the Town Planning Institute Compensation and Betterment Committee, 1940, page 31.

Under the proposed scheme all licences would be conditioned by the payment of a betterment levy to be determined by the District Valuer, and no licence would be issued until the District Valuer had notified the planning authority that he had determined the amount of the levy and that it had been accepted by the landowner.

The levy would be computed by first finding the difference between the value of the land licensed and unlicensed, and then taking an arbitrary percentage (say 50 per cent. or 75 per cent.) of that difference as the betterment charge payable by the landowner for the grant of a licence to develop. The value licensed would be the price paid for the land (whether undeveloped or developed) by the person whose proposals for development or redevelopment had been approved by the planning authority. The value unlicensed would be assessed at the market value of the land, at the date of the application for a licence, based on the assumption that there had been a restriction imposed by law on the land permanently prohibiting its use for any purpose other than the purpose for which it was actually used immediately before the application for a licence had been made. The process of valuation on such an assumption would be to capitalise the net income derived from the land by a number of years' purchase appropriate to the hazards of such income. Where land was in the owner's occupation and he proposed to develop it himself, the Schedule A assessment might be adopted as representing the annual income for the purpose of calculating the betterment levy. It might be necessary to provide for a substituted datum value in cases where (say within a period of 10 years before the scheme came into force) the landowner had purchased or mortgaged the land proposed to be developed for a consideration in excess of the unlicensed value, or had inherited the land and Estate Duty had been paid on a principal value in excess of the unlicensed value.

As regards the occasions on which a levy should be made, the scheme as outlined provides for the assessment of betterment only when a licence to develop is granted, i.e. when development, or redevelopment, or a change in the use of land takes place and betterment is realised. Where more than one occasion arises in respect of the same land the datum line for the ascertainment of the betterment levy on a subsequent occasion would be the licensed value on the preceding occasion.

305. The scheme as outlined above was supplemented by oral evidence to the following effect:—

(i) The scheme is designed to segregate arbitrarily betterment in the strict sense of increased value of land due to particular public improvements or planning scheme provisions from increment due to general causes, national and local, all such attempts having proved unsuccessful hitherto. It is not intended to provide for a general increment duty, and the suggestion is that of the difference between the unlicensed value of the property and its licensed value an arbitrary proportion of (say) 50 per cent. or 25 per cent. should be retained by the landowner and treated as due to all general causes, and only the remaining 50 per cent. or 75 per cent. regarded as "betterment" and as recoverable from the owner.

(ii) The scheme is only intended to take a share of increase in *site* values, and, in arriving at the amount of the betterment for the purposes of the levy, deduction should be made from the licensed value not only for the unlicensed value but also for any expenditure on converting or improving the property.

(iii) Where the property is leased, and not sold, on an "occasion", the purchase price (i.e. the licensed value) would be arrived at by capitalising the rent reserved in the lease.

(iv) For the purposes of the scheme development, redevelopment and change of use are three separate things, on the happening of any of which a licence would be necessary and a betterment levy payable. While the property remains in the same ownership and in the same physical condition without any change of user, the scheme does not seek to recover any betterment, the general idea being that little (if any) enhancement of price would be realised on a sale or lease of property for a continuance of the existing user.

(v) In the event of a refusal of a licence to develop, redevelop or change the use of the property, as the case might be, the question of compensation would be determined by whatever planning code is in force at the time.

306. A variant of this scheme was also submitted to us suggesting that a levy should be made on any increase in the site value of land realised on the occasion of a "disposition", i.e. (a) any transfer on sale of the fee simple of the land; (b) the grant of any lease of land for a term of (say) three or more years; or (c) any transfer on sale of any such lease. The increase for the purposes of the levy would be the difference between (i) the capital value of the site at the date of the disposition on the assumption that the site is restricted for all time to its use at that date and (ii) the market value of the site at that date calculated from the consideration actually received on the sale, lease, etc., deduction being made from the difference so arrived at for any increase in site value due to any expenditure of a capital nature which the owner may have incurred in improving the land itself. Where, however, on the occasion of any disposition giving rise to the collection of the levy, it is proved that the site value of the land on some previous disposition occurring within 10 years before the scheme comes into force exceeded the site value as ascertained for the purposes of the levy, the site value of such previous disposition should be substituted as the datum line for the assessment of the levy. To meet the case where an owner himself developed the property and remained in possession in preference to selling or letting it on lease, the erection of a new building or the carrying out of structural alterations to an existing building might also be made an occasion for valuation with a view to a levy.

307. We are unable to recommend the adoption of the scheme or its variant for a number of reasons of which it is sufficient to mention the following:—

(i) It is a common feature of both the scheme and its variant that the datum from which increases in site value are to be measured (except where a substituted datum is provided, in the circumstances described above) is the capital value of the site as if restricted for all time for its use at the date of the "occasion". The effect in the case of agricultural land sold for building after the scheme is in force would be that the whole of the difference between its agricultural value and the price paid for it would be chargeable with the levy. If, however, the land were near a town, some part of the increase thus realised might already have accrued in the shape of potential development value before the scheme came into force, and to that extent the levy would amount to retrospective taxation, which we do not think could be justified.

(ii) We doubt whether it would be practicable to arrive at site value by a process of calculation from the consideration paid for composite subjects in connection with actual transactions; for instance, the expressed consideration may be below the true market value of the property by reason of collusion between the parties, or a lessee of business premises wishing to renew his lease might find himself forced into paying twice the rent rather than leave the premises—in which case, if the building itself

remained unaltered and of the same value, the whole of the capitalised increase in rent would be attributed to the site value, which would be inequitable. Again, where only part of a property was the subject of a "disposition", e.g., if two rooms only of an upper storey of a four-storey building were let on lease for three years, it would seem to be a very difficult matter to arrive at the capital site value of the part disposed of.

(iii) Apart from these detailed criticisms of the scheme and its variant, neither of them can be regarded as an adequate solution to the betterment problem. Each only proposes to attempt to recover betterment on certain properties on certain occasions—the one, on development, redevelopment or change of use, the other on dispositions by sale, lease for three years or transfer of lease—and even taken together they do not cover the whole field. An increase in the site value of land may at any time occur and be enjoyed in the form of increased rent or increased value for occupation, even where the property remains unchanged physically and in the same ownership or occupation, and in any case in which an increase in site value has been actually realised, enjoyed or is realisable, it is, in our view, a proper subject for a levy.

In any event, so far as increases of value occurring on the development of undeveloped land are concerned, we are satisfied that nothing less than the "development rights scheme" which we have recommended in Chapter IV will provide a solution to that part of the betterment problem.

(5) RECOMMENDED SCHEME FOR PERIODIC LEVY ON INCREASES IN ANNUAL SITE VALUES

(a) *Introductory*

308. We have shown that, of the existing methods for recovering "betterment" in its strict sense of increase in the value of land due to particular public improvements or provisions of planning schemes, set-off has been of little practical effect; that direct charge under the Town Planning Acts has been a failure; and that there is no prospect that either method will be any more successful in future, mainly because their first requisite is one which cannot be satisfied, viz., the identification or segregation of the strict "betterment" element in the total increase in value of any property. The only successful existing method is recoupment which suffers from no such disability, for, where a public authority disposes of land which it has bought, the whole of any increase in value is automatically obtained for the community and the general or particular causes which have created it are irrelevant.

We are forced to the conclusion that no *ad hoc* search for "betterment" in its present strict sense can ever succeed, and that the only way of solving the problem is to cut the Gordian knot by taking for the community some fixed proportion of the whole of any increase in site values without any attempt at precise analysis of the causes to which it may be due.

309. One method which has been advocated of measuring increases of site value involves an initial valuation on a capital basis of all land in the country at a given date, this initial valuation being the datum line from which subsequent increases would be measured by revaluations at periodic intervals, a levy being made after each revaluation on the increases so revealed. (Under the Finance, (1909–10) Act, 1910, Increment Value Duty was collected on increases in site value over a datum valuation only on the occasion of a sale or a lease for 14 years or a death; but this, in our view, is not sufficient, for an increase in site value can at any time occur and can be realised or enjoyed on

other "occasions" than those mentioned.) The initial capital valuation would, however, take some years to make and would reach finality only after appeals had been determined. The subsequent periodical valuations, though they would not take so long as the initial valuation, would still require a considerable time to make. To make an initial valuation, and subsequent revaluations, of the capital value of all the hereditaments in the country would be a very expensive matter, and, in our view, the cost would be out of all proportion to the total amount of increment which might be recovered. There is, for instance, likely to be little increase in the case of ordinary dwelling-houses, which constitute the greatest number of properties. Increases in site values occur mostly in the case of undeveloped land as and when it is ripening towards development, but, as all such increases would be fully dealt with by the "development rights scheme" which we have recommended in Chapter IV, we can confine our search primarily to some method for dealing with increases in the site value of land after it has been developed.

310. Before setting out our own proposals, we think it may be well to lay down certain fundamental principles to which any method for assessing and collecting a levy on increases in land values should conform if it is to be equitable and administratively practicable. They are :—

(i) So far as the increase in value is due to the enterprise and expenditure of owners and developers, it must be excluded from charge—there must be no tax on improvements. This can only be secured by limiting the subject of the levy to increases in the value of the site, and, further, excluding from the increase in site value such part, if any, as has been created by the owner or developer, though, as a practical matter, this exclusion may have to take the form of an allowance of a fixed proportion of the total increase. Subject to this allowance, all the increase in site value, whether due to specific public improvements or to planning schemes or general community influences, is, however, a proper subject for levy.

(ii) Before any increase in site value can become a proper subject for levy, it must not only have occurred and have been proved, but must also have been realised or enjoyed or be realisable.

(iii) There must be no duplication of the levy. The recovery of "betterment" by direct charge or by set-off against compensation payable on public acquisition of land or for injurious affection, whether under general or local Acts, should accordingly cease to operate.

(iv) The community's share of increases in site values must be secured by one method and by one authority, however the proceeds may be ultimately applied.

(b) Outline of Scheme

311. It may be convenient at this stage, for the better understanding of our detailed proposals, to give the main outlines of our scheme, and we desire to emphasise at the outset that all the fundamental principles set out in the preceding paragraph have been taken into account in framing it.

We propose—

(i) That, as soon as the necessary legislation is passed, there shall be ascertained the annual site value of every rateable hereditament as actually developed, such value to be a fixed datum line from which to measure all future increases in annual site values. No valuation is to be made in the case of agricultural land and farmhouses.

(ii) That a revaluation should be made every five years of the annual site value as then developed.

(iii) That there should be a levy in each of the five years following each revaluation of a fixed proportion (say 75 per cent.) of the amount of any increase in the annual site value over the fixed datum line as revealed by the revaluation.

(iv) That the levy should be borne by the person actually enjoying or capable of realising the increased value.

(v) That the necessary valuations should be made through the existing valuation machinery for ordinary rating purposes, and entered in the rating valuation lists.

(c) *General Basis of Scheme*

312. We do not think it would be possible to devise a practicable scheme for limiting initial and subsequent periodical valuations of either annual or capital site value to those hereditaments only whose site values are likely to increase at some time or other, especially in view of the probability of coming changes in the location of development under national planning. As already indicated, the heavy expense of an *ad hoc* valuation of all the hereditaments in the country initially and at periodic intervals in order to ascertain increases in site value could not be justified, since, as far as can be foreseen, such increases are likely to occur with respect only to a relatively small part of the property valued. In any event, increases in the value of undeveloped land up to its first development will be covered by the "development rights" scheme recommended in Chapter IV.

Some more convenient and less expensive method of assessing and collecting increment must, therefore, be sought, and the possibility of making use of some existing form of continuously running valuation machinery suggested itself to us. The only present valuations of this nature are those made for (a) Income Tax, Schedule A, and (b) rating. Both are concerned only with annual values. And annual values, as opposed to capital values, are essential to our scheme because the latter include the value of potentialities not yet realised or enjoyed.

What we have in mind is that, when the annual values of hereditaments are being arrived at quinquennially in the ordinary course, it should not involve much extra expense to ascertain and record their annual site values at the same time. For this purpose we think the rating valuation machinery would operate more satisfactorily than that for Schedule A valuations. In taking this view we are moved by the following considerations: (i) most rating authorities are advised by their official or part-time valuers and, with the assistance of directions by the County Valuation Committees as we propose, they should be able to determine annual site value, a conception which will be outside the valuation experience of most Inspectors of Taxes; (ii) Schedule A assessment lists include agricultural land, whereas agricultural land is not rated nor included in rating valuation lists; hence, as the collection of increment on agricultural land while it remains undeveloped does not fall within our scheme, it will be more convenient to work on rating valuation lists than the Schedule A assessment books; (iii) the machinery for local assessment and objection to valuation lists is familiar to the public, and objection could be made to the annual site value in the same way as to the ordinary rating assessment; (iv) in any event, we contemplate that a levy on increment would, and could most easily, be assessed and collected locally by the rating authorities as they are likely to have more intimate and earlier knowledge of the properties concerned than Inspectors of Taxes. The valuers of a rating authority inspect property and possess local knowledge and experience kept constantly up to date by the changing values and the corrective valuations which have to be made throughout each quinquennium.

313. We recommend, therefore, that in the valuation lists made for rating purposes there should be provided an additional column in which should be entered quinquennially the annual site value of every hereditament separately assessable for rates.*

Revaluations for rating purposes in England and Wales† are made quinquennially (though they are suspended during the war), so that every five years the annual site value of each hereditament would contemporaneously be determined afresh and recorded in the valuation list, and any increase over the first annual site value so recorded—the datum valuation—would be revealed as the subject for a levy. We do not think it would be an economical proposition to attempt to measure and assess increment at more frequent intervals than five years; interim special revaluations on changes by sale or reletting would not be desirable, and would conduce to lack of uniformity in valuation.

Broadly stated, our recommendation is that there should be a levy in respect of the increase in annual site value of each hereditament as revealed at each quinquennial rating revaluation over the datum annual site value (i.e., the annual site value as first determined for the purposes of the scheme).

(d) *Unit for Site Valuation*

314. The unit for site valuation should normally be the unit for ordinary rating, but there should be power (i) to aggregate rating units, either for convenience (e.g. where a number of properties are held on separate tenancies from the same owner) or because their site value ought to be determined as one unit (e.g., a lodge separately rated from a mansion to which it is appurtenant), and (ii) to divide rating units where they are in more than one ownership (e.g. where a factory in one occupation but in two ownerships is rated as a single unit). In the case of blocks of flats and offices let on separate tenancies, it might be convenient to arrive at the annual site value of the whole property and apportion it between the various occupation units by reference to their respective gross or net rateable values.

It will be necessary to apportion or aggregate the datum site values in order to relate them to a changed unit found on the occasions of revaluation. Records should be made of the details of the datum valuation and of any subsequent apportionment so as to assist in making subsequent re-apportionments.

(e) *Determination of "Annual Site Value"*

General Basis

315. To satisfy the purposes of the scheme the annual value of the site should be the value of the site as actually developed at the date of each valuation. A man ought not to be asked to pay on what he cannot realise, e.g., if a property is let on lease, it would be unfair to tax the lessor in respect of a potential increase in value which he cannot reap by a more profitable development until the lease has expired. Further, one must avoid the difficulty (which arose in connection with the determination of site value for the purposes of Increment Value Duty under the Finance (1909-10) Act, 1910) of having to estimate what each and every owner would or could do with his site if he were entirely free to redevelop it for any lawful purpose he pleased.

* Subject to certain qualifications which we refer to later; see para. 329 *et seq.* below.

† We deal in the first place with the scheme as it would work in England and Wales, though we shall have occasion to refer to the position in Scotland in regard to certain matters. The general application of the scheme to Scotland is dealt with in paras. 345-346 below.

Increment is thus only collected as and when it actually appears and not in advance of the facts.

We accordingly recommend that, for the purposes of the scheme, the annual value of any particular site on the occasion of the datum valuation should be limited to the annual value of the site as then actually and physically developed and as if it were permanently restricted against any other form of development than that then existing, and similarly on the occasion of each subsequent quinquennial revaluation. Thus, in the case of a dwellinghouse the possibility of its being converted into a shop would be ignored. On the other hand, the annual value of the site would be determined by reference to the most prudent use of the property in its actual physical state of development, that is, without structural alterations; for example, if particular premises were actually being used merely for storage purposes, but without structural alteration they could be let or used more profitably as a garage, the annual site value would be determined by reference to the possible more profitable use. In no case, however, would the estimate of site value be of its value if physically redeveloped in a different way.

316. Our proposal is that on the initial valuation and each subsequent quinquennial revaluation there should be made an entirely independent valuation of the annual value of the site as then developed and as if restricted against any other form of development. In making this valuation the valuer might have regard to the net annual value of the composite property—site and buildings—for ordinary rating as he would to any other evidence of value, but he would not be bound by it.

The method or methods to be employed in order to determine annual site values are purely matters of the art of valuation, and, while we have prescribed the general basis to be adopted, it is not for us to lay down particular rules which must be followed in ascertaining site values. Nice problems may arise for solution in the case of particular properties, but, generally speaking, we do not believe that the determination of annual site values will present any serious difficulty to valuers—the rating valuers will be acting under the directions of the County Valuation Committees if a proposal we make later is accepted. Advising as to fair ground rents is a normal function of valuers, and even in the present exceptional times site values are being determined for the purposes of compensation under the War Damage Act, 1941. In many countries inside and outside the British Empire site values form a basis for rating and taxation.

(f) Determination of Assessable Increment

317. We propose first to explain the working of our scheme in the normal case of sites actually developed by some kind of building.*

Ascertainment of Gross Increment

The first step is to determine and enter in the valuation list for rating made or current at a prescribed date the annual site value as then developed of every hereditament separately assessed for rates. The annual site value so ascertained will be the datum from which increases are to be measured.

At the next periodical revaluation for rating purposes (*i.e.*, normally after five years, though on the first occasion after the inception of the scheme the period might be less than five years) a new valuation list would be made and the annual values of the sites would be reviewed and the new annual site value of each hereditament as actually developed at the date of the revaluation entered in the list.

* The application of the scheme to certain other classes of property, such as agricultural land, bare sites in built-up areas, Crown lands, etc., is dealt with in paras. 329–333 below.

The measure of the gross increment in any particular case for the purposes of the levy would be the increase in annual site value revealed by the revaluation over the annual site value at the initial valuation, i.e. over the datum value. This increment would be the subject of an annual levy over the *following* five years until the next revaluation, but no charge would be made in respect of the period from the initial valuation up to the first revaluation.

At each subsequent revaluation the annual site value of each hereditament as then developed would be determined afresh and any increase which might be revealed in the annual site value over the *datum* value would be the subject of a levy over the following five years only, and the levy would remain without change until the next revaluation.

The process may be illustrated by the following example :—

Initial valuation, 1943, Annual site value £10 (datum).

Revaluation, 1948, Annual site value £20. Increase over datum £10.

Revaluation, 1953, Annual site value £25. Increase over datum £15.

Revaluation, 1958, Annual site value £22. Increase over datum £12.

No levy will be made in respect of the period 1943–48, even though the increase of £10 will have accrued during part of that period. The increases over the datum of £10, £15, and £12 revealed by the 1948, 1953 and 1958 revaluations will be the subject of successive levies over the periods 1948–53, 1953–58 and 1958–63 respectively.

318. It is important to notice that for the purposes of the levy the increase in annual site value at each and every revaluation is to be measured from the datum value and not from the annual site value at the preceding revaluation. The effect of this is that where, after a rise above the datum value, the annual site value falls again at a subsequent revaluation, due relief will be given by basing the levy for the next five years on the lowered increase above the datum. No monetary compensation would, however, be paid in respect of any fall in value *below* the datum, though any further levy would be automatically suspended until the annual site value again rose above the datum. Thus, if the datum value was £10, and the values at the subsequent revaluations were 1948 £9, 1953 £9 and 1958 £11, no relief would be given in respect of the drop to £9, but no levy would be made until 1958 from which date it would be based on the increase of £1 over the datum.

Allowance for Owner's Improvements to Site

319. For the purposes of the Increment Value Duty under the Finance (1909–10) Act, 1910, all improvements to sites made by man, without limit of time, were in law allowable as a deduction before arriving at the assessable site value, e.g., building and trade sites in Lincolnshire had to be valued on the basis that Roman embankments protecting the land from flooding had never been built. By 1913 the Government came to the conclusion that some time limit must be laid down for allowable improvements; the war of 1914 and other causes prevented the passing of the necessary legislation, but, in any case, any time limit involves difficult investigations as regards the precise date when an improvement was made. These difficulties are avoided in our scheme by the provision that the datum annual site value should be that of the site as actually developed at the date of the initial valuation which includes all improvements to the site, such as levelling, roads and sewers, made up to that date.

Previous improvements, therefore, can be regarded as being included in the datum annual site value, except as to the unfructified portion which can properly be regarded as covered by the 25 per cent. of the increase not subject to levy.

It is necessary to explain in anticipation our proposal that only a proportion (we suggest tentatively 75 per cent.) of any revealed increase in annual site value should be taken by the community. Some part of the increase might be due to private skill and initiative, or to the fructification of past expenditure, and if the whole of the increase were taken there would be no economic incentive to private individuals to be enterprising in development. Since such part of the increase in site value as may be due to private skill and enterprise cannot be precisely measured, no specific deduction can be allowed against the gross increment, but we think that this factor will be adequately compensated for by limiting the community's share of the increment to 75 per cent.

320. It remains to provide for allowances for the value of owner's expenditure at the end of each quinquennium upon the occasion of the revaluations. Enquiry will be confined to such expenditure as has incurred in the five previous years so far as it has affected the value of the site as actually developed.

We propose to limit the allowance to not exceeding 4 per cent. on the capital cost. It would be desirable to specify definitely in the Act establishing the scheme the class or nature of allowable expenditure, viz., the provision of access (e.g., roads, bridges, sidings), drainage, changing the levels of the site, securing services such as are supplied by public utility undertakings, and obtaining modification or removal of restrictive covenants.*

Where, upon any revaluation, it is found that any subject matter of the owner's expenditure (for which an allowance was made) has become replaced by renewal in the same or in a substituted manner, or has become of no value to the site, the former allowance should cease to form a deduction.

Deductions for improvements to the site would only be allowable so far as appropriate to the portion of the site in respect of which the increase in annual site value had occurred, e.g., where only three houses had as yet been built on the site though five hundred were projected.

The owner's allowances, being fixed sums determined on each revaluation by reference to expenditure incurred in each of the previous periods of five years, will be cumulative. Thus, in effect, it is the datum valuation plus the accumulated allowances which forms the amount to be deducted from the periodic annual site values. The operation of owner's allowances and the 25 per cent. of the increase not subjected to levy can be thus illustrated :—

1943—Datum Annual Site Value (A.S.V.)	..	..	..	..	£ 50
1948—1st Revaluation : A.S.V.	..	..	..	..	£ 62
Less datum	..	..	..	..	50
Gross increase	..	..	..	..	12
25 per cent. allowance	..	..	..	..	3
Annual levy payable from 1948 to 1953	..	..	..	..	9

*In this connection we may mention here that in arriving at the datum and periodic annual site values under our scheme there would be no need to take account of actual restrictive covenants affecting the property, because the site would be valued as it is in fact developed at the date of the valuation, and as though it were restricted against any other form of development. On the one hand, therefore, it would be assumed that all covenants and restrictions had been observed and no enquiry would be necessary as to why it had been developed in the way it had been, and, on the other hand, the valuer would not be confronted with the problem of what the owner could or could not do with the site.

1953—2nd Revaluation : A.S.V.	£	100
Less datum	50	
		50
Owner's allowance for expenditure in 1948-1953	22	
		28
25 per cent. allowance	7	
Annual levy payable from 1953 to 1958	21	
1958—3rd Revaluation : A.S.V.	£	140
Less datum	50	
		90
Owner's allowance for expenditure in 1948-1953	£ 22	
Owner's allowance for expenditure in 1953-1958	20	
		42
		48
25 per cent. allowance	12	
Annual levy payable from 1958 to 1963	36	
1963—4th Revaluation : A.S.V.	£	100
Less datum	50	
		50
Owner's former allowance of £22 re 1948-1953 : ceased to be of value	0	
Owner's allowance for expenditure in 1958-1963	10	
		10
		40
25 per cent. allowance	10	
Annual levy payable from 1963 to 1968	30	

Where on subsequent revaluations the unit area is different from the unit on the previous valuation, it will be necessary to apportion the owner's former allowances. Records in detail would, therefore, be kept of all such apportionments so as to assist in any reapportionment.

The apportionments of the former allowances would be made on the basis of values which the expenditure creating them contributes at the dates of the subsequent revaluations to the several portions or divisions of the unit.

(g) *Date for Initial Valuation*

321. We propose that the initial entries for annual site value should be made against the properties shown in the rating valuation list current at the date of the Act giving effect to the scheme, and that their datum annual site

value should be based on their actual state of development at that date and should include any increase in value which has accrued prior to that date from whatever cause.

322. We realise that the adoption of this basis may in some cases result in the datum value being swollen by an increase in value due to war conditions, e.g., by the construction or destruction of other property in the neighbourhood, and we have carefully considered whether it would be practicable to give effect to the view we expressed in paragraph 10 of our Interim Report that in principle "the datum line to be adopted for calculating betterment should not be higher than the standard of 'pre-war value'", i.e., value at 31st March, 1939. We have come to the conclusion that it would not be practicable. We laid down the principle of the "March, 1939, ceiling" in our Interim Report primarily for application in assessing compensation payable in respect of the public acquisition or control of land, with the object of preventing any person from obtaining a financial gain at the expense of the public by reason of war conditions or post-war reconstruction, and we pointed out in the paragraph referred to that administrative difficulties might be encountered in the application of the principle in ascertaining the datum line for the purposes of calculating "betterment".

We do not think that the valuers will find any difficulty in disregarding, as is obviously right, the possible effects of post-war reconstruction in arriving at the datum annual site value. (We ought perhaps to explain that we are not suggesting the exclusion from the datum of any increase in the value of property due to the anticipated effects of a planning scheme under the *existing* town planning legislation which is in operation, in draft or projected at the datum date; the anticipated effect of such known schemes is part of the normal value of property.)

The real problem is to find a way of eliminating from the datum value any increase in value due to war conditions or physical happenings, whether of construction or destruction, which have occurred prior to the datum date. We find it administratively insoluble. We have considered two possible methods:—

(i) To use the valuation list current at 31st March, 1939, for the initial valuation and ascertain and enter therein the annual site values of the properties in that list as actually developed at that date. But (a) this list would not be a record of the units of ownership or occupations as existing at the date of the commencement of the scheme, for properties would have been erected, or demolished, or altered in the meantime, and (b) owners and occupiers would also have changed in the meantime. Further, the effect of lowering the datum by this method would be to charge for all time an increase which had occurred during a period when rents and purchase prices had been fixed by parties who were in ignorance of the levy, making necessary very complicated provisions to secure an equitable incidence of the levy.

(ii) To take the properties and units of ownerships or occupations as they stand in the valuation list current at the date of the Act giving effect to the scheme in their then existing state of development, but enter as their datum annual site value the value at 31st March, 1939, or the date of the Act, whichever is the lower. But this would involve making two valuations in every case for the purposes of comparison, only to find in the great majority of cases that there was no difference or but a trivial difference between the two figures. Nor would it be any easier to take the current annual site value of the property at the date of the Act and endeavour to exclude from it any increase in value due to war conditions and happenings prior to that date, for difficult enquiries

would be necessary, probably involving considerable expense relative to the extra amount of increment secured, to ascertain just what war happenings in the neighbourhood had affected the value of any particular property and the extent to which they had affected it.

To sum up, while in principle the March, 1939, ceiling should be applied in fixing the datum annual site value so as to enable a share of war increment to be secured for the community, we are satisfied that this is administratively impracticable, that the datum value must include any increase (or, indeed, decrease) in value, from whatever cause, which has occurred prior to the datum date, and that the net loss involved in the failure to eliminate war increment from the datum annual site values will be relatively small. What is much more important is to secure for the community a share of any increases in site values due to post-war construction and this our scheme should make possible.

(h) Rate and Method of charging the Levy

323. When the amount of the increase in site value to be charged has been ascertained at any particular revaluation, we propose that an annual levy should be made in respect of that amount for each of the five years of the quinquennium commencing with the revaluation year, so that in effect there would be a series of separate five-year levies succeeding one another indefinitely, unless and until the annual site value at any revaluation falls below the datum value plus the added allowances for owner's expenditure, when levies would cease unless and until the annual site value again rises above the datum value plus the allowances.

The levy would always be made "in arrear" of the increment, because it would not become payable until an increase in annual site value had been brought to light by a subsequent revaluation; an increase in value might, therefore, be enjoyed without levy for nearly five years before it was revealed on a revaluation.

We have already stated that we propose that only a proportion of the revealed increment should be taken, and we have given our reasons for that view in paragraph 319. What that proportion should be is for Parliament to say, but we suggested that the proportion should be 75 per cent., having regard to the adoption of that figure in the case of betterment under the Town and Country Planning Act, 1932, and other Acts.

The example in paragraph 320 illustrates the effect of the foregoing proposals.

(i) Relation of Levy to existing Methods of recovering "Betterment"

324. There must be no duplicate collection of betterment or increment. Of the existing methods of recovery, recoupment involves out and out purchase by the public authority, so that the retention of this method and its expansion in scope which we have recommended* gives rise to no duplication with our proposed levy, which is only directed to securing a share of the increases in annual site value which would otherwise be wholly taken by private individuals. But the position is different in the cases of set-off and direct charge, which are designed to recover a share of the increase in value, due to public actions, of property remaining in the hands of private individuals; here there would clearly be an overlapping with our proposed levy if those methods were allowed to continue to operate. We have shown earlier in this Chapter that these methods

of recovering betterment are ineffective in practice, and we have recommended* that all statutory provisions for the recovery of betterment by set-off or direct charge should cease to operate when our proposed scheme for a levy on increases in annual site value is established, except in so far as they relate to the recovery of betterment in respect of increases in the agricultural value of undeveloped land while it remains undeveloped and not rateable, and thus not subject to our levy scheme. (We do not suggest that there should be any interference with such charges as sewerage and drainage, including sea defence, rates or those for private street works.†)

325. A question for consideration in the present connection is whether amounts paid for betterment by set-off or direct charge before the coming into force of our levy scheme should be allowed for in any way against levies which may become payable on increases in annual site value.

So far as the betterment in respect of which the set-off or direct charge has been suffered has fructified prior to the datum date for our scheme, it will have been taken into account in the datum valuation which will be correspondingly higher, and no question of further allowance can arise. The problem of allowance can, therefore, only arise as regards amounts paid by set-off or direct charge before the datum date in respect of betterment which is not fully realised until after the datum date. We are of opinion that it is not administratively practicable to make such an allowance, having regard to the following considerations: (i) "betterment" is normally recovered by set-off or direct charge on a capital basis, whereas our proposed levy is on an annual basis; (ii) "betterment" for the purposes of set-off or direct charge is the increase in value of both land and buildings, and is, moreover, calculated by reference to the full potentialities of the bettered property, whereas our proposed levy is only in respect of increase in the annual value of the site and of the site in its existing state of development; (iii) in the great majority of cases of the public acquisition of property, the compensation is settled by negotiation and any set-off for betterment which may have been taken into account is rarely precisely calculated or recorded; (iv) the set-off or direct charge may have been suffered or paid by one person and the levy may be payable by another with a different interest in the property; (v) lastly, we do not believe that the size of the problem warrants any attempt to draft the extremely complicated provisions which would be necessary to deal with the matter.

(j) *Machinery*

326. Our proposals envisage the use of the ordinary rating valuation machinery for the ascertainment of annual site values and the assessment of the levy so that the work may be done as economically as possible.

In England and Wales (except London) the existing procedure for the making of rating valuation lists, and for objections and appeals against the values entered therein, is contained in the Rating and Valuation Act, 1925. In outline it is as follows:—the local rating authority is required to prepare a new valuation list at each quinquennial revaluation, and for this purpose they may employ a "competent person" to advise and assist them in the valuation of the hereditaments to be included therein. The valuation list is prepared in draft in the first instance, and any person dissatisfied with the valuation of any hereditament therein may lodge an objection with the Assessment Committee for the area. If any objector who appeared before the Assessment Committee

*See paras. 288 and 293 above.

†See para. 297 above.

is dissatisfied with their decision, he may appeal to the Quarter Sessions, who may state a case on a point of law to the High Court. The Act also provided that each County Council should set up a County Valuation Committee (composed of members of the County Council and one representative of each Assessment Committee) with the duty of promoting uniformity of rating within the County and of assisting rating authorities and Assessment Committees; County Valuation Committees may appear as a party to any objection or appeal. Assessment Committees and County Valuation Committees are, like rating authorities, empowered to employ a "competent person" to advise and assist them. To complete the structure as regards the provinces, the Minister of Health has, as required by the Act, constituted a Central Valuation Committee for promoting uniformity and removing inequalities in the system of valuation, their powers being to consult with Associations of local authorities and with Assessment Committees and other persons and bodies, and to make representations to the Minister on the aforesaid matters.

In London, the Valuation (Metropolis) Act, 1869, provides for quinquennial revaluations to be made by each Borough, and objections lie to the Assessment Committees and appeals from them to the London Quarter Sessions.

327. We propose that the initial valuations, and subsequent revaluations, of annual site value for the purposes of our scheme should be made by the local rating authorities operating through their ordinary valuation machinery, but that (except in London in which the position is somewhat different, and as to which we make no recommendation on this point, except that the County Council should at least have power of objection) they should act under the *directions* of the County Valuation Committees. At present those Committees have no directive powers but only advisory and objecting powers, and if, as sometimes happens, local rating authorities choose to ignore the view of the County Valuation Committee, the latter's only remedy is to enter objections—it may be hundreds of them—to the Assessment Committee and, if necessary, appeal to Quarter Sessions. We regard it as essential that County Valuation Committees should have directive and controlling powers in this matter. Uniformity of valuation of annual site values should as far as possible be secured within the area of each county. We understand that experience of the Rating and Valuation Act, 1925, has created a demand that the County Committees should also have directive powers in the making of the quinquennial rating valuation lists.

328. The annual site value entered in the initial and any subsequent list (and the apportionment of the datum value and owner's expenditure allowances made on the division of a site) should be subject to objection and appeal, and objections and appeals should go to the same tribunals as deal with ordinary rating objections and appeals, whatever those tribunals may be under the legislation for the time being in force. We have some doubt whether Quarter Sessions would be a satisfactory body to hear appeals against annual site values and whether such appeals ought not to go to an arbitrator selected from a panel: indeed, we are inclined to the view that the existing procedure for appeals to Quarter Sessions is unsatisfactory even in the case of ordinary rating; this is, however, a technical matter outside our province, and we content ourselves with suggesting that the whole question of rating appeal machinery might well be the subject of review.

There are two further points we should mention in the present connection.

(a) We do not consider it within our province to discuss how the proceeds of the levy should be applied or whether they should be divided, and, if so, in what shares, between the State and the local authorities,

who we envisage would collect the levy. But, if it be decided that the State should be entitled to any substantial share in the proceeds, we suggest that the District Valuer (on behalf of the State) might be given the right of objection and appeal against valuations of annual site value. It should be remembered that if the State becomes possessed of the development rights over most of the country and disposes of them by way of lease and not by way of sale, increment in site values will accrue to the State through the medium of rents.

(b) Both in London and the provinces the annual values for rating of all hereditaments are redetermined every five years and entered in a new valuation list. But during the quinquennium both the ratepayer and the rating authority can in the provinces object at any time to the values. In London the powers of objection during the quinquennium are, stated shortly, much more limited, and (apart from emergency legislation) are confined by Section 47 of the Valuation (Metropolis) Act, 1869, and case law thereon, to special causes, affecting the hereditament in question in particular or hereditaments of a particular class.

We do not, however, think that under our scheme any person liable for levy or the valuation authority should have a similar right of objection at any time during the quinquennium against the current annual site value on the ground that the annual site value had fallen or increased since it was fixed at the preceding revaluation. The annual site values should stand for five years and only be inserted in the quinquennial valuation lists.

(k) *Application of Scheme to certain Classes of Property*

Agricultural Land

329. In England and Wales, agricultural land including farm buildings (other than the farmhouse* itself) is not rateable, and therefore does not appear in the valuation list, but as soon as it is occupied for purposes other than agriculture (e.g., for building development) an entry for the property is made in the valuation list.

It would be impossible—even were it our desire—to use the ordinary machinery we have suggested in order to determine the annual site values of all agricultural land in the country at the date of the initial valuation for the purposes of our scheme as none of it would be in the valuation lists; to ascertain those values at that date a separate *ad hoc* valuation would be necessary. This would involve an enormous amount of work, much of it useless because most of the land will have no potential building value. Moreover it is not our intention to make a levy on betterment or increases in agricultural value. The great expense and delay of an *ad hoc* valuation of the site value of the large area of agricultural land in the country at the date of the initial valuation could not be justified merely to catch, over a small area, the increase occurring, on land still used agriculturally, between the date of the initial valuation and the date of actual development and entry in the rating valuation list.

As indicated above, farmhouses* are rateable and are included in valuation lists in England and Wales, but there is little likelihood of any change in their annual site value so long as they are used as farmhouses, and so far as future development is concerned they are practically in the same position as agricultural land. In Scotland agricultural land is not wholly relieved of rates and, together with any farmhouse and farm buildings, is entered as one subject in the valuation roll. For the foregoing reasons, however, we propose that no entries for annual site value should be made in the "initial" valuation list

* See Section 72 of Local Government Act, 1929.

in respect of agricultural land and farmhouses and farm buildings, either in England and Wales or in Scotland.

330. The important question for consideration is how the full increase in the site value of the land on its becoming developed over its agricultural value can be brought into charge.

When agricultural land becomes occupied for purposes other than agriculture an entry is at once made for the property in the rating valuation list without waiting for the next quinquennial revaluation, and clearly an entry should be made at the same time of its annual site value relevant to the new circumstances to serve as a datum from which to measure future increment for the purposes of our proposed levy. No levy would be made until the next revaluation after the development had taken place, but what figure is to be entered as datum annual site value?

On the assumption that the "development rights scheme" we have recommended in Chapter IV is accepted there will be no difficulty. The State, having acquired all development rights in agricultural land, no one will be able to develop agricultural land without obtaining a lease of the land from the State which will be able to secure, by means of the rent charged, the full increase in annual site value of the land over agricultural value which has accrued up to the date of first development. When the property first comes into the valuation list, it would, therefore, be sufficient to enter—at the same time—its annual site value relevant to its new state of development as the datum for measuring any increases in annual site value during the currency of the original State lease, or subsequent leases, or otherwise.

It is only necessary for us to add, without going into details, that we have been unable to find any satisfactory way of dealing with this matter if the "development rights scheme" is not accepted.

Other Properties Exempt from Rating

331. In addition to agricultural land, certain other classes of property are exempt from rating. Of these the principal are:—

(a) hereditaments occupied by the Crown;

(b) any church, chapel or other premises exclusively appropriated to public religious worship—Poor Rate Exemptions Act, 1833; and

(c) premises belonging to societies instituted for science, literature, or the fine arts exclusively and occupied for the purposes of the society—Scientific Societies Act, 1843.

No entries are made in the valuation list for places of worship or scientific, etc., societies. Although property in the occupation of the Crown is exempt, the Treasury in fact make an *ex gratia* contribution towards rates on such property. The value on which the contribution is based is agreed between the rating authority and the Treasury, and that value has to be entered in the valuation list.

We propose that entries for annual site value should be made in the valuation list as regards the property of scientific, etc., societies and also Crown ownerships and occupations, the true annual site value in the latter case being arrived at without reference to the figure on which the Treasury base their *ex gratia* contribution. No entries of annual site value should, however, be made in respect of recognised places of public worship.

Property of Public Utility Undertakings

332. Property occupied by public utility undertakings, when used for the purpose of the undertaking, is included in the valuation list, but the annual value is arrived at on the "profits basis". In our view it is unlikely

that there would be any increase in site value of such last-mentioned property so long as used for the purpose of the undertaking, and we propose that during that period it should be excluded from the operation of our scheme, but that an entry for annual site value of such properties should be made in the valuation list as and when it ceases to be so used.

Undeveloped Sites in Urban Areas, and Sites of Demolished or Destroyed Buildings

333. As in the case of agricultural land, bare sites (i.e., sites which have never been developed) in urban areas are not entered in the valuation list in England and Wales (though they are in Scotland), but as soon as they are developed an entry for the property is made in the valuation list then current. The considerations set out in paragraph 329 above which led us to the conclusion that it would be impracticable to make valuations of the annual site value of agricultural land at the date of the inception of the scheme, have very considerably less weight in relation to undeveloped sites in urban areas, as such sites are relatively few in number and comparison with the site values of surrounding properties is readily available. We therefore propose that the annual site value of undeveloped sites in urban areas should be ascertained and entered in the initial valuation list, and similarly on the occasion of each subsequent revaluation, even though they may still be bare. In accordance with the general basis we have laid down for arriving at annual site value, i.e., by reference to the actual physical state of development of the site, a bare site would be valued on the basis of the prudent use to which it could lawfully be put.

Property which is destroyed or demolished ceases to be a rateable subject, but an entry is, or should be as a matter of law, continued for it in the valuation list so that it shall not be lost sight of, though no rateable value is entered against it in the rate book until a new building is erected. We propose that entries for the annual value of the sites of destroyed or demolished properties should be made in the initial valuation list and subsequent revaluation lists as in the case of sites which have not yet been developed.

In England and Wales property unoccupied at any quinquennial revaluation is, or should be, included in the valuation list, though omitted from the rate book; in Scotland it is included in both, since owner's rates are payable even when it is unoccupied. An entry for annual site value should be made notwithstanding that the property in question may be unoccupied at the date of the initial valuation or any subsequent revaluation.

(d) Incidence and Collection of the Levy

General Principle

334. The real or ultimate incidence as opposed to the apparent incidence of existing local rates and of taxes or rates on site values has been the subject of discussion by many writers, and the problem was fully reviewed by the Royal Commission on Local Taxation, 1896-1901,* and by the Departmental Committee on Local Taxation, 1912-1914.† Differing views are held on the matter and it is impossible to find any general agreement on the proportions in which the burden is distributed between owners and occupiers, either generally or in any individual case. The balance of opinion seems to be, however, that all burdens on land are ultimately borne by the owner.

* See Chapter IX of Majority Report, Chapter V of Separate Report by Sir Edward Hamilton and Sir George Murray, and Separate Minority Report on Urban Rating and Site Values, all issued together as the Final Report of the Commission in 1901, Cd. 638.

† See Chapter X of Majority Report, and Separate Minority Report on The Rating of Land Values, issued together as the Final Report of the Committee in 1941, Cd. 7315.

We do not propose to enter into one more—almost certainly inconclusive—discussion on this vexed question. We prefer simply to lay down the principle which, in our view, should govern liability to our proposed levy. Having regard to the facts that the subject of the levy is not site value itself but only the increase in site value, that the increase is to be calculated on an annual basis and that the levy is to be a yearly one, we think that an overwhelming case can be made out for the proposition that the levy should be borne ultimately by the person who is for the year in question actually enjoying or is in a position to realise the increase in value. **We therefore recommend that, when an increase in annual site value is revealed on any revaluation, the levy thereon should be borne by the person who is for the time being in enjoyment of the increase.** The primary question is not therefore whether the levy should be borne by the owner or the occupier, but who is the person who has realised or is enjoying the increment or is able to realise it.

There would be no retrospective levy on the increment and there would therefore be no pursuit of persons who had ceased to be interested in the property; the person in enjoyment of the increase at the date of the revaluation at which it was revealed would be liable to bear the levy for each of the five years until the next revaluation, unless in the meantime some other person came into enjoyment of it, e.g., if the property was disposed of, when the burden would be transferred to the new shoulders for the remaining years of the quinquennium.

In the working out of the general principle we have laid down, it is important to remember that, on the passing of the Act giving effect to the scheme, and indeed some time before, all persons would have been warned of the possibility of liability to a levy on any increase in the annual site value, and all transactions of sale or lease after such warning would be entered into in the knowledge of this possibility, so that a purchaser, for instance would have had a chance to pay a lower price for property in view of the liability to levy of an increase in site value.

Application of the Principle

(i) Owner-occupiers

335. An owner-occupier of property whose annual site value is shown on a revaluation to have increased is in a position to realise the increase by sale or letting, and if he prefers to remain in occupation he is nevertheless in enjoyment of the increase and should pay and suffer the levy.

(ii) Leases existing at the "Specified Date" (i.e., a date to be provided in the Act of Parliament setting up the scheme)

336. When a new impost on landed property is introduced, questions naturally arise regarding its incidence in cases where two or more persons are interested in a particular property under an existing contract. The State has the right to impose taxation and prescribe the manner in which it is to be borne regardless of private contracts, but it is desirable that the provisions regarding incidence should be made as equitable as possible. This has been our aim in framing the following proposals for applying to leased property the general principle laid down in paragraph 334.

In paragraphs 337 to 339 "lessee" means the owner for the time being of that lease which carries possession of the property, and "lessor" means the immediate superior in receipt of the rent from the "lessee", he being the first person able to realise the increment in the annual site value by increasing the rent.

It will be necessary, we think, to fix a specific date as the "specified date". As soon as the possibility of the levy becomes known, parties will desire in

their new bargains to deal with the incidence of the levy. The "specified date", therefore, may be any date after the publication of this Report.

337. If a lease existing at the "specified date" determines before the date of the first revaluation after the initial valuation, it need not be considered. For liability to levy first arises only at the date of the first revaluation, by which time the lessor will have had the opportunity of enjoying the benefit of any increase in site value in the form of an increased rent or will himself have entered into occupation of the property, and the ordinary rules in paragraphs 339 or 335, as the case may be, will apply.

338. Where the term of a lease existing at the "specified date" continues after the date of the first revaluation, the lessee is the person enjoying the increase in annual site value during the remainder of the term (since the lessor cannot realise it by increasing the rent). The lessee should, therefore, in the normal case pay and bear the levy during the term of the "existing" lease, whatever may be the terms of any covenants in the lease relating to the incidence of burdens upon the property.

There are exceptional cases where the lessee has made a payment to his landlord in order to enjoy the increment, e.g., a payment made by a lessee to his landlord to secure permission to convert a house into a shop, or to obtain the release of a covenant forbidding any use except use for residential purposes. In cases such as these, provision should be made for securing that a fair proportion of the levy is borne by the landlord.

(iii) *Leases entered into after the "Specified Date"*

339. In the case of leases entered into after the "specified date"* the levy should in every case be collected from the lessor, and for this purpose the collecting authority should be entitled to require the lessee to state the name and address of the person to whom he pays his rent. Whether the lessor ultimately bears the levy or not will depend on the terms of his bargain with the lessee, but this will be no concern of the collecting authority.

In the case of these leases the existence of the levy scheme will have been known to both lessor and lessee at the time of their bargain, and, in our view, except in the case of yearly tenancies or tenancies for less than a year (as to which see below), there should be complete freedom of contract between the lessor and lessee as to who should bear the levy. Thus the lessor, when settling the rent on a new lease or a new rent on a renewal of a lease, could either fix it at a figure which would include any accrued or prospective increment or he could accept a smaller rent and obtain the lessee's covenant to refund to him any levy which he (the lessor) had to pay. But no covenant in a lease should be effective to place the burden of the levy on the lessee unless the levy is referred to in express terms.

In the case of yearly tenancies or tenancies for less than a year, however, the lessor should have no right to contract out of the burden of the levy, and any agreement entered into by the tenant to refund to the lessor the amount of any levy should be void.

(iv) *Summary of Position as regards Leases*

340. The position as regards leased property set out in the foregoing paragraphs may be summarised thus :—

- (a) In the case of leases entered into before the "specified date" and still subsisting at the date of the first revaluation after the initial valuation, the levy will be paid and borne by the "lessee" during the term of the lease.

* For the reasons given in paragraph 337, it is unnecessary to consider leases which determine before the date of the first revaluation.

(b) In every other case the levy will be paid by the lessor and the burden will rest with him unless the lease is a lease for more than a year and there is in the lease a covenant to the contrary dealing in express terms with the levy.

(v) *Multiple Buildings in one Ownership*

341. In the case of blocks of flats or offices or of buildings belonging to one owner and let in separate storeys or suites of rooms, each rateable occupation would be a separate unit for the purposes of the scheme, and the annual value of the site of the whole building could be apportioned between the several parts let separately according to the gross or net rateable value (but not the rent) of the several parts. The liability to pay and bear the levy would be determined in accordance with the rules set out in paragraphs 336 to 340 above. But where all the several parts of the building are let on yearly tenancies or tenancies for less than a year the owner would be liable both to pay and bear any levy in respect of all the parts; it would, therefore, be unnecessary to apportion the annual site value of the whole property to the several parts. As stated in paragraph 343 below, the fact that a part of the property was temporarily unoccupied would not be a ground for relieving from levy any increase in its annual site value.

(vi) *State Leases under the "Development Rights Scheme"*

342. We have devised the periodic levy scheme primarily with a view to securing for the community a share of community-created increase in annual site values of property which is for the time being in full private ownership.

The question arises, therefore, of the application of the levy scheme where the property is in *public* ownership. The most important case is property falling within the "development rights scheme" recommended in Chapter IV. This scheme provides for the acquisition by the State of the development rights in all undeveloped land and of the owner's interest in the land when intended to be developed, and for the granting by the State of leases to developers. In our view it is desirable as a matter of general policy that the levy should be imposed in respect of property leased pursuant to that scheme. The matter is, we think, more than a matter of administration.

(vii) *Unoccupied Property*

343. Where property is unoccupied at the date of a revaluation, its annual site value should nevertheless be determined, and, if any increase is revealed, the levy should be chargeable as though occupied; the levy should also continue to be chargeable notwithstanding that property might fall vacant during the quinquennium following a revaluation.

(viii) *Bare Sites*

344. Where an increase in the annual value of a site has been revealed, we are of opinion that, as a normal rule, the levy should be charged even though the site is bare or becomes bare, since the owner would be enjoying the increment as being in hand, and, though not reaped, it would be reaped. Where, owing to the destruction or damage of the property by some calamity such as fire or enemy action or to the condemnation of the property, it is beyond the power of the owner to turn the site to profitable account until the property has been re-created, the owner might be relieved of liability to pay the levy during the period of enforced sterilisation.

(m) *Application to Scotland*

345. We do not think that there should be any difficulty in applying the scheme to Scotland. In view of the fact that improvements are rated separately in that country owing to the division of rates between proprietors and tenants,

some changes might be necessary in making up the valuation roll so far as the entry of annual site values is concerned. Having regard to the rating system in Scotland, consideration should be given to the question whether the same percentage of increase in site value ought to be applicable in Scotland as in England.

Under the relevant Acts, in the case of property let on lease, if the lease is for more than 21 years (in which case the lessee is deemed to be also the owner) the rating Assessor is free to estimate the annual value for rating without being bound by the rent reserved in the lease. But where the property is let for not more than 21 years without a premium or other consideration than the rent (which applies to the great majority of cases), the rent must be taken as the annual value for rating purposes during the whole term of the lease; and in such a case it is clearly of particular importance that the annual site value for the purposes of the levy scheme should be arrived at independently of the rateable value. In the case of leases under 21 years where the lessee makes structural improvements he is deemed to be the proprietor of such improvements and is separately rated therefor, their annual value being ascertained by taking the difference between the rent payable under the lease for the subjects let and the rent at which the subjects let and the improvements might together in the actual state be reasonably expected to be let from year to year.

The valuation roll is revised or "made up" every year for rating purposes, but it will be sufficient for the purposes of our scheme if the annual site values are determined every fifth year only as in England; as in England* there should be no right on either side to ask for a revision of the annual site value during the five-yearly period.

346. As regards machinery, valuation for rating purposes in Scotland is entrusted to statutory Assessors appointed by the county councils and large burghs (smaller burghs coming under the Assessor for the county within which they are situate); they may appoint the District Inspector of Taxes as Assessor, but we understand that all the big burghs and important counties have appointed their own full-time Assessors. There are no County Valuation Committees nor is there a Central Valuation Committee as in England.

The valuation roll is made up annually by the Assessor; who disposes of appeals in the first instance (unlike England where the first appeal is to the Assessment Committee). If the Assessor cannot satisfy the ratepayer, the latter can appeal to a Valuation Appeal Committee appointed by the rating authority from its own members, and if either the Assessor or the ratepayer is dissatisfied with the decision of the Committee he can appeal (both on questions of law and valuation) to the Lands Valuation Appeal Court, specially constituted of three judges of the Court of Session, whose decision is final.

We propose that, for the purposes of our scheme, annual site value should, as a general rule, be determined by the existing rating Assessors; but we doubt whether Inspectors of Taxes will have sufficient knowledge and experience of the art of valuation to undertake this task, and, where the Assessor is the Inspector of Taxes, we suggest that a skilled surveyor assessor should be appointed to deal at any rate with the ascertainment of site values. We also propose that the appeal machinery for ordinary rating purposes should be used for the purposes of appeals against annual site values, though we doubt whether the existing local Valuation Appeal Committees would be suitable bodies to hear appeals on questions of site value unless advised by a valuer, and the appointment of an arbitrator (selected from a panel) might be desirable. We think, too, that there should be some statutory machinery provided for securing uniformity within the area of each county, but the question of the reform of rating valuation machinery is not within our province.

* See para. 323 above.

(n) Conclusion

347. There are points of detail with which we have not dealt and which will require to be worked out in connection with the scheme, but we have dealt with all points of principle. We claim for the scheme the following advantages :

(a) The scheme will catch increment arising from public expenditure, from the operation of the provisions of planning schemes, and from general community causes ;

(b) The scheme excludes from levy all increases in the annual value of property due to individual skill and enterprise and does not tax improvements ;

(c) The scheme does not import hypotheses as to what could be done with the site, but is confined to the facts that happen ;

(d) The increase in site value will in fact have been realised or enjoyed or be realisable before becoming subject to the levy ;

(e) The use of the existing rating valuation machinery is the most economical way of ascertaining annual site values ;

(f) The machinery for local assessment and objection to valuation lists is already familiar to the public ; and

(g) The ascertainment of annual site values will provide a basis for the differential rating of sites and buildings to the relief of improvements, should it be desired to introduce such a system.

We have not formed any estimate of the financial yield to be expected from the scheme.

The imposition of the levy as an annual charge raises the question whether levy payments are, for Income Tax purposes, to be treated as deductible in ascertaining trade profits, or are otherwise to be taken into account for Income Tax purposes. Into that question we do not enter. If they are to be treated as deductible, the total receipt in respect of Income Tax and the levy would not, while the rate of Income Tax remains high, greatly exceed the present yield from Income Tax. That, however, is not an objection in principle to an attempt to collect betterment or to the principle of attempting to collect it by means of an annual levy, and certainly it is no objection at all to ascertaining site values now. The future must be envisaged and one thing at least should be done timeously.

CHAPTER X**UNIFICATION OF THE REVERSION**

348. The proposal submitted to us for the unification of the reversion to land is as follows :—

That all land in Great Britain be forthwith converted into leasehold interests held by the present proprietors as lessees of the State at a peppercorn rent for such a uniform term of years as may reasonably, without payment of compensation, be regarded as equitable, and subject to such conditions enforceable by re-entry as may from time to time be applicable under planning schemes.

349. The immediate result of the adoption of the scheme would be that the State as landlord would enforce town planning restrictions in the same way as is common under the long leasehold system in England and Wales. If the covenant is broken, the State should be given a power of re-entry. But that power of re-entry just as in the case of a private landlord, would be subject

to the jurisdiction of the Court to give relief. The practice of the Court in freely giving relief is settled and well known.

This method of securing compliance with town planning restrictions would have the effect of impressing upon landowners that landholding involves duties as well as rights.

350. Under the "development rights scheme" dealt with in Chapter IV the State will, on new development on what is at present undeveloped land outside "town areas", acquire the land and lease it to the developers. As regards other lands acquired in built-up areas by the State or the local authority we have recommended* that where disposed of it should be dealt with by leasing and not by sale. There will, therefore, be considerable areas of land subject to leases the reversions on which are vested in the State or some other public authority. Hence the proposal for unification of the reversion would fall into line.

351. Intelligently administered the proposal should not hamper the operation of private enterprise in regard to the development or use of land or otherwise fetter its enjoyment. Subject to compliance with planning legislation the leaseholder would be equally free to make the same use of his land as if he had remained a freeholder: and, if in the future new developments are desired and the remaining period of the lease is insufficient to justify the expenditure, application for renewal could be made. Machinery for this purpose will be in operation since the State will already be handling applications to develop land over which it has acquired the development rights.

352. No compensation would be paid and the term of years to be fixed, therefore, would be such that the market value of the lease from the State was not appreciably less than the market value of the freehold interest. For this purpose the conventional term of 99 years would certainly be long enough.

353. In England and Wales the long leasehold system is part of the common habit of the people and its universal introduction would not be a novelty upsetting established methods of dealing with and developing land. In Scotland the long leasehold system is not common; land is largely given off by the creation of feus in perpetuity subject to certain conditions. This is the counterpart of the leasehold system in England and Wales, differing in regard that the holding of the land is in perpetuity.

354. We have stated the proposal. It is one upon which the Committee is not agreed.

355. One member, who thinks that there is much to be said for the ultimate reversion becoming vested in the State in (say) 80 to 99 years time, objects to the proposal on this ground—that its immediate effect would be to give rise to possible forfeiture if planning requirements and obligations were not complied with, his view being that this would work injustice. Town planning restrictions or obligations might exceed reasonable limits and be so increased as regards positive requirements of capital expenditure on the part of owners as to compel them to submit to forfeiture. The value of a property, whether for mortgage or sale, upon the property becoming liable in certain—or, rather, uncertain—events to forfeiture suffers serious depreciation and loses its stability. Nothing affects value so much as uncertainty; particularly when no estimate of its degree or incidence can be made, as is the case with this proposal, because both degree and incidence would depend upon the restrictions and obligations imposed by dictation from time to time by local authorities and the Legislature.

356. Another member goes further and objects to the principle of the proposal as involving land nationalisation to which he is opposed. But he also objects on the grounds set out in paragraph 355.

* See Chapter V, para. 147.

357. Other members recognise that the contribution made by the proposal to the immediate solution of the problem is limited and that its ultimate effect is the real matter to be considered. In their view the risks as to forfeiture are met by the Court's powers to give relief or could be sufficiently provided for. For the rest they hold it to be the task of this generation to take stock of the possible needs and views of succeeding generations with respect to National Planning. They wish to start time running in favour of succeeding generations.

358. We put the proposal forward for consideration.

CHAPTER XI

THE CENTRAL PLANNING AUTHORITY

359. We have stated* our assumptions that planning is intended to be a reality and a permanent feature of the administration of the internal affairs of the country, and that the system of planning assumed is one of national planning with a high degree of initiation and control by the Central Planning Authority, which will have national as well as local considerations in mind, and that such control will be based on organised research into the social and economic life of the country and be directed to securing the use and development of land to the best advantage.

We have further stated that the Central Planning Authority we have in mind is an organisation which does not yet exist, and that "planning" has a meaning not attached to it in any legislation nor, until recently, in the minds of the public. Put shortly, National Development is added to planning. We propose in this Chapter to use the term National Development.

Having set forth a scheme which will bring under the control of the Central Planning Authority all undeveloped land in the country outside town areas (and undeveloped land cannot be considered by the Central Planning Authority in isolation from land inside town areas), we ought to state our views as to the form the Central Planning Authority might properly assume.

360. However the Central Planning Authority is constituted and whatever departmental arrangements are made, it is essential that there should exist means by which the requirements of agriculture, transport, public services and defence, as well as housing, industrial location, town siting and other matters, can be given proper weight and considered as a whole. Co-ordination at the centre as respects the various Government Departments interested in particular aspects of planning is necessary. Without this the general lines on which National Development should proceed cannot be properly determined, nor the lands properly managed in the interests of National Development.

361. It is clear at the outset that the settlement of the broad principles of policy, the making of the schemes necessary to carry out that policy and the execution of the schemes are distinct matters.

362. In our view it would be a mistake if there were created a Government Department concerned with National Development, which would rank with existing Government Departments. What is wanted is thought at the centre, an informed vision, unified control of land use and co-ordination between the existing Departments.

We think that this can only be secured if there is set up a Minister—we call him the Minister for National Development—who should be specially charged with National Development. He should have no departmental cares, but he

* See para. 17.

should have the advantage of a highly qualified staff informed as to the economic conditions and needs of the country, competent to put forward proposals for consideration and to advise on the economic and other questions (other than technical questions) arising out of schemes for development.

363. The broad principles of policy would, we apprehend, be settled by the Cabinet after consideration by a Committee of Ministers presided over by the Minister for National Development. The making of schemes necessary to carry out that policy would fall to the Committee of Ministers presided over by the Minister for National Development. Upon those schemes the Committee would have the assistance of the various Government Departments.

The actual execution of the schemes and formulation of detailed plans would fall to the Government Department concerned.

364. The planning functions of the Minister of Works and Planning under the present legislation appear to us to fall directly within the sphere of the Minister for National Development. Clearly the control of the "development rights scheme" and the exercise of the powers arising under it also fall within the sphere of the Minister for National Development. In our view general matters connected with development of land should be kept under the one hand and should be under the personal direction of the Minister for National Development.

365. The next question is what organisation should, consistently with the principles set out in the previous paragraph, be set up so as to secure that the Minister is not concerned with matters of day-to-day administration, that administration is properly handled and that local authorities, private developers, and landowners have ready access to informed advice and authoritative direction. In our view a suitable organisation would be a Commission on the lines of the War Damage Commission. To the Commission so set up definite powers—including the powers arising under the Town and Country Planning Act and the "development rights scheme" should be given. The control of the Minister for National Development—and, with that, Parliamentary control—should be secured by empowering the Minister to give directions to the Commission.

366. We would make only two observations upon the composition of the Commission. First, it is necessary that there should be a full-time Chairman and that it should include a member of the economic staff of the Minister. Second, it would be an advantage if no other members were full-time members. The opportunity should be seized of securing the service upon the Commission of persons who, by their experience of public affairs, their knowledge of the needs of industry or their knowledge of land utilisation, will ensure common sense administration, and command for the Commission the confidence of the public.

CHAPTER XII

SUMMARY OF RECOMMENDATIONS

367. The following is a summary of our recommendations:—

CHAP. IV. UNDEVELOPED LAND

368. We recommend the immediate vesting in the State of the rights of development in all land lying outside built-up areas (subject to certain exceptions) on payment of fair compensation, such vesting to be secured by the imposition of a prohibition against development otherwise than with the consent

of the State accompanied by the grant of compulsory powers of acquiring the land itself when wanted for public purposes or approved private development.

This proposal is outlined in paragraph 49 and considered in detail in Chapter IV.

CHAP. V. DEVELOPED LAND*

(a) *Interim Control of Development*

369. In order to secure the necessary control over all building and other development during the interim period while the broad lines of reconstruction are being worked out, legislation should be passed without delay providing that all areas not already covered by operative planning schemes or resolutions to plan should be deemed to be subject to such resolutions. (Paragraph 136.)

(b) *Extended Powers of Compulsory Purchase*

(i) *War-Damaged and other Reconstruction Areas*

370. For the purpose of securing the necessary redevelopment of areas which, whether by reason of war damage or otherwise, ought, in the opinion of the competent planning authority, to be scheduled for redevelopment as a whole, the planning authority should be given the power to purchase compulsorily the whole of such an area. We describe such areas as Reconstruction Areas. (Paragraph 145.) (In Chapter VI we recommend a new acquisition procedure for such areas—see paragraph 376 below.)

No legal right to preferential treatment should be conferred on dispossessed owners of land in a Reconstruction Area, but, as a matter of administration, in the disposing of land regard should be paid to the claims of the dispossessed owner who wishes to secure a site in the Reconstruction Area. (Paragraph 146.)

Once any interest in land has passed into public ownership, it should be disposed of by way of lease only and not by way of sale, and the authority should have the power to impose such covenants in the lease as planning requirements make desirable, breach of such covenants to be enforceable by re-entry. Although this recommendation is made primarily in connection with Reconstruction Areas, it is intended to be of general application to any interest in land disposed of by a public authority. (Paragraph 147.)

(ii) *Purchase for Planning Purposes*

371. Powers of compulsory acquisition of land for planning purposes should be available before a planning scheme is in operation (as well as after it is in operation, as at present), provided Ministerial sanction of the proposed purchase is obtained. (Paragraph 148.)

Where development or redevelopment in accordance with a planning scheme is held up, the planning authority should have power to acquire the land compulsorily with a view to enabling developers to carry out the desired work. (Paragraph 149.)

The planning authority should have power to acquire land compulsorily with a view to development or redevelopment by the authority themselves, but only where this is essential to accelerate the carrying out of a planning scheme. (Paragraph 150.)

The planning authority should be granted powers of compulsory purchase of any interest in or right over land in order that they may enforce, if necessary, adjustments which are required in the interests of good planning, in respect of boundaries and easements (including rights of light) as between particular properties. (Paragraph 154.)

* See also recommendations in Chaps. VII and VIII, summarised in paras. 388 and 392 below, regarding the "life" of buildings.

(iii) *Purchase in Advance of Requirements*

372. Local authorities should be empowered, subject to the consent of the appropriate Government Department, to acquire land in advance of requirements compulsorily as well as by agreement, and the power should not be subject to a qualification that the land is expected to be required for a defined purpose within a specified period of time. (Paragraph 151.)

(iv) *Purchase for Re-instatement*

373. Acquiring authorities should have general powers of compulsory purchase of land, whether within or outside their area, for the purpose of the provision of alternative accommodation for persons displaced from premises purchased by the authority for planning schemes or other public purposes, but this power should not be exercisable in respect of land outside their area except with the consent of the appropriate Government Department. (Paragraph 152.)

(v) *Purchase for Recoupment*

374. See paragraph 394 below.

CHAP. VI. PROCEDURE FOR OBTAINING AND EXERCISING COMPULSORY POWERS OF ACQUISITION

(a) *Modification of Existing Procedure for obtaining Compulsory Powers of Acquisition under Provisional and Ministerial Orders*

375. We recommend that :—

(i) there should be no public enquiry in any case unless the Central Planning Authority or the appropriate Minister should, having regard to all the circumstances, think it desirable ;

(ii) a similar rule should apply in regard to the service of individual notices ; and

(iii) in cases where individual notices are to be served, workable rules should be laid down for determining the persons on whom the notices should be served and the method of service, the rules to be such as may reasonably be expected to bring the proposed acquisition to the attention of persons affected. (Paragraph 166.)

(b) *Suggested New Procedure for obtaining and exercising Compulsory Powers*

376. We recommend the adoption of a new simple and expeditious procedure for the purpose of the public acquisition of land in the case of Reconstruction Areas (see paragraph 370 above) and such other areas as the Central Planning Authority or the appropriate Minister shall determine to be proper. The advantage of the procedure is that the legal matters involved are put on one side for separate treatment, and the acquiring authority are free to get on with their work without being hampered by the delays incident to the ascertainment of the persons interested, the examination of their title, and the assessment of the compensation payable to them. This procedure is set out in paragraphs 168 to 173.

(c) *Modifications of Existing Procedure upon Acquisition*

377. We make the following recommendations :—

(i) *Service of Notices to Treat*

The acquiring authority should be allowed to serve notices to treat only in respect of such interests as they may desire to acquire. (Paragraph 174.)

(ii) *Statement of Claim following Notice to Treat*

It should be made obligatory upon any person served with a notice to treat to submit to the acquiring authority a statement of the nature of his interest within 21 days of the service upon him of the notice to treat. Failure to send in the statement in due time without good excuse should, in the event of an arbitration on the amount of compensation payable, give the arbitrator jurisdiction to deprive the peccant claimant of the whole or any part of his costs in the arbitration. (Paragraph 175.)

(iii) *Power of Entry on Land*

Where notice to treat has been served in respect of any land, the acquiring authority should, subject to having given 14 days' notice of their intention in that behalf to the person or persons in possession of the land, be entitled to enter upon the land at a date specified in the notice, and, whether entry is made at the date specified in the notice or not, interest on the compensation for all interests in the land entered should be paid from the date of intended entry up to the date of completion, and all apportionments made on that footing. (Paragraph 176.)

(iv) *Power to serve Notices to Quit*

The acquiring authority should, at any time after notice to treat has been given by them to a reversioner on any lease or tenancy, be entitled to give any notice to determine the lease or tenancy which the reversioner might lawfully have given. (Paragraph 177.)

(v) *Acquisition of Part only of Property*

The acquiring authority should in all cases have power to take part of any property where they think fit, upon payment of proper compensation therefor (including compensation for injurious affection by severance, disturbance or otherwise); but where, in the authority's view, the claim for compensation would be such that it would be cheaper to acquire the whole or any part of the premises the authority should be empowered to do so. (Paragraph 178.)

(vi) *Acquisition from Persons under Disability*

Acquiring authorities should be relieved in the future of all liability for costs occasioned by a re-investment of moneys paid into Court, or to the Minister of Agriculture and Fisheries, upon acquisition of land from persons under a disability; and, in the case of land acquired from a University or College as defined by the Universities and College Estates Act, 1925, any purchase or compensation moneys for which the acquiring authority are unable to obtain a good discharge from trustees or other persons should be paid to the Minister of Agriculture and Fisheries. (Paragraph 179.)

(vii) *Necessity to show Failure to acquire by Agreement*

The condition imposed by some General Acts that land may only be acquired compulsorily on failure to acquire by agreement should be repealed. (Paragraph 180.)

(viii) *Acquisition of Land from Statutory Undertakers*

Under Section 179 of the Local Government Act, 1933, land belonging to statutory undertakers cannot be compulsorily acquired under a Ministerial Order. This exception in its present wide form should be repealed, so that the acquisition of the land of a statutory undertaker can be determined upon by the appropriate Minister in the same way as the land of other owners when the Order is being considered by him. (Paragraph 181.)

CHAP. VII. ASSESSMENT OF COMPENSATION ON ACQUISITION OF LAND AND FOR INJURIOUS AFFECTION

(1) *Assessment of Compensation for Land Purchased*

(a) *Modifications of the Rules in Section 2 of the Acquisition of Land (Assessment of Compensation) Act, 1919*

378. We recommend the following modifications of these Rules:—

(i) *Rule (2)*

For the existing proviso to the Rule a new provision should be substituted to the effect that the arbitrator should be bound to consider, in the light of the surrounding circumstances, site and all other values

claimed and allowed under the War Damage Act, 1941: and that he should be entitled to require and consider all returns and assessments of capital value and annual value for taxation (including licence duty in the case of licensed premises) and rating (including drainage rates).

The new provision should make it clear that, although the information obtained from returns, assessments, etc., in the case of those connected with the War Damage Act, 1941, must be taken into consideration, and in other cases may be taken into consideration, they are not necessarily to be the basis on which the award is made. (Paragraph 186.)

(ii) *Rule (3)*

This Rule should be recast on the following lines:—

“The special suitability or adaptability of the land for any purpose shall not be taken into account if that purpose is a purpose to which it could be applied only in pursuance of statutory powers: and no account shall be taken of any increased value or element of value arising from the actual or possible demands for the land or other land by any Government Department, local or public authority, or any statutory undertaker; or arising from the existence of or proposals for, or the probability or possibility of the land or other land becoming subject to, any public scheme of development, redevelopment or reconstruction (including schemes of preservation from development) or from any works done or to be done or any change of user under any such scheme.” (Paragraph 188.)

(iii) *Rule (5)*

This rule relates to compensation on the basis of reinstatement. We suggest an amendment to the existing Rule, and that there should be added: “In fixing the amount of compensation payable on the basis of reinstatement, the arbitrator, in estimating the cost of buildings on another site, shall estimate the cost of buildings such as would be capable of serving an equivalent purpose over the same period of time as the buildings on the land taken would have done, and shall make allowances from such estimated cost for any structural depreciation in the buildings on the land taken.”

We further recommend that, where compensation is awarded on the basis of reinstatement, the arbitrator should have power to direct that the whole or part of the sum awarded shall be held back, and paid, if and when work is done, as he shall determine. (Paragraph 190.)

(b) *Further Modifications*

379. Other recommendations* in relation to the basis of assessment of compensation on acquisition are:—

(i) *Effect of War on Possibility of “Marriage” of Plots*

In determining the value of any particular plot, no regard should be paid to possibilities of combination with other plots so far as these possibilities depend on war happenings to such other plots. (Paragraph 202.)

(ii) *Creation of New Interests*

A provision on the following lines should apply generally in the case of all compulsory purchases of land by public authorities:—

“The arbitrator shall not take into account any interest created in the land proposed to be acquired after the specified date or any enhancement of the value of any interest in the said land by reason of any building erected, works done or improvement or alteration made after the said date, either on the said land or any other land with which the claimant is or was at the date of the erection or doing or making of

* As to the March, 1939, ceiling, see para. 194 *et seq.*

the building, works, improvement or alteration directly or indirectly concerned, unless the arbitrator is satisfied that the creation of the interest or the erection of the building or the doing of the work or the making of the improvement or the alteration took place in the ordinary course and not with a view to obtaining compensation or increased compensation."

The "specified date" should mean the date specified or otherwise provided for by the Order (whether a Provisional Order or a Ministerial Order) or the Special Act, as the case may be, or if there is no such date then the earliest date on which, in the opinion of the arbitrator, the claimant knew or might reasonably be expected to have known of the proposed acquisition of the land. (Paragraph 203.)

(iii) *Sites of stopped-up Highways*

The Town and Country Planning Act, 1932 (Third Schedule, Part I, paragraph 3 (iii)) provides that where the land to which a Ministerial Order relates is land forming the site of a highway which has been stopped up under a provision contained in a planning scheme, "any compensation payable shall be assessed on the basis that the land could not lawfully be used in any manner which, if the highway had not been stopped up, would have interfered with the right of the public to use the highway." A similar provision is frequently included in other Acts and Orders relating to public acquisition. We recommend that it should be made a rule of general application. (Paragraph 204.)

(iv) *Set-off of "Betterment" against Compensation*

See paragraph 395 below for a conditional recommendation on this matter.

(2) *Assessment of Compensation for Injurious Affection*

(a) *Time for claiming Compensation*

380. We recommend that (if the arbitrator so directs) the determination of a claim for injurious affection resulting from the exercise of statutory powers may be postponed for such period not exceeding 2 years from the date of the acquisition of the land as the arbitrator shall determine.

In cases where such postponement occurs the compensation will be paid to the persons (or their successors in title) who would have been entitled thereto had the claims been determined at the same time as the claims for compensation for the land taken. (Paragraph 211.)

(b) *Subsequent Change of User by Acquiring Authority*

381. We recommend that :—

(i) an acquiring authority should be authorised on the acquisition of land under statutory powers, whether by agreement or compulsorily, to give an undertaking or to enter into restrictive covenants as to the uses to which the land will be put ;

(ii) in assessing compensation for injurious affection resulting from the exercise of the statutory powers, the arbitrator should take into account and (where necessary) embody in his award any such undertaking or covenant ;

And in order to meet possible change of circumstances :—

(iii) any such undertaking or covenant may be removed or modified in the circumstances mentioned in Section 84 of the Law of Property Act, 1925, in accordance with the procedure and on terms mentioned in that Section, or (where the circumstances are not such as to bring the case within that Section) may be removed or modified with the assent of the appropriate Minister, and, in the latter case—

(iv) the Minister may, if he is of opinion, having regard to the character of the uses originally intended and of the proposed new uses and to all other relevant circumstances¹ (including any compensation for injurious affection previously paid and the length of time since the land was acquired), that no compensation or no further compensation ought to be paid, so certify in giving his assent : but in all other cases the acquiring authority should be liable to pay to the persons (or their successors in title) who would have been entitled thereto such compensation or additional compensation as may be proper had the proposed new uses been those for which the land was originally acquired. (Paragraph 214.)

(c) *Compensation for Trade Disturbance—Excess Profits Tax*

382. Provision should be made that, in assessing compensation for injurious affection in respect of trade disturbance, full regard should be paid to the liability in respect of the trade to Excess Profits Tax. (Paragraph 216.)

(d) *Tribunal for assessing Compensation*

383. We recommend that all compensation for injurious affection should be assessed, by the Official Arbitrator in accordance with the procedure applicable under the Acquisition of Land (Assessment of Compensation) Act, 1919. (Paragraph 217.)

(3) *Arbitration Proceedings*

(a) *Costs*

384. We recommend :—

(i) that the acquiring authority should be statutorily bound to make an unconditional offer of the maximum sum they are prepared to pay, to be communicated to the claimant before the arbitration but not communicated to the arbitrator ;

(ii) that the offer should be sealed and not handed to the arbitrator but kept out of his possession until after his award has been published ;

(iii) that the arbitrator should then make a separate award of costs according to his discretion but after seeing the sealed offer. (Paragraph 223.)

(b) *Proceedings before the Arbitrator*

385. We recommend that, by Rules of the Reference Committee, provision should be made to secure that the hearing should be as informal as possible, and that, after valuations have been exchanged and submitted to the arbitrator, it should be left to him (after ascertaining the views of the parties) to decide whether he wants to hear legal argument or only to see the Surveyors for each side—a matter which can frequently be done at the same time as he inspects the property. (Paragraph 224.)

(c) *Right of Appeal*

386. Under Section 6 of the Acquisition of Land (Assessment of Compensation) Act, 1919, the decision of the High Court on a point of law is final and conclusive. We suggest that, subject to leave in each case being given, there should be a right of appeal to the Court of Appeal, and, if necessary, to the House of Lords. (Paragraph 225.)

(d) *Availability of Evidence*

387. We recommend that the negotiating parties in all cases of public acquisition should have the right to obtain from the Inland Revenue Department on application (and subject to the payment of such fees as may be thought fit) complete information regarding the sales or leases of particular named properties, including the considerations paid, the extent of the interest disposed of, and the names and addresses of the parties concerned in the transaction. (Paragraph 226.)

(4) *Life of Buildings*

388. We make the following recommendations :—

(i) An addition should be made to the Fourth Schedule of the Housing Act, 1936, to the effect that, in assessing compensation for premises purchased under Section 29 or Section 36 of the Act which, although not unfit for human habitation, are, by reason of their age, design, construction, arrangement or density, not in accordance with modern standards, the arbitrator shall assume that such buildings will become incapable of being used or let at or before the expiration of 10 years from the date of the Minister's approval of the Clearance Order or Compulsory Purchase Order, as the case may be. (Paragraph 227.)

(ii) The foregoing provision and the provisions of Section 40 of the Housing Act, 1936, prescribing site value only as the basis of compensation in the case of houses unfit for human habitation, should be made applicable in the case of Reconstruction Areas (*see* paragraph 370 above) and other cases where substantial blocks of land are acquired for redevelopment. (Paragraph 227.)

(iii) Where a " life " has been placed on a " non-conforming " building or use for the purposes of securing conformity with a planning scheme in accordance with our recommendation in Chapter VIII (*see* paragraph 392 below), the compensation payable in the event of the property being publicly acquired should be assessed by reference to the remainder of the " life " outstanding. (Paragraph 228.)

CHAP. VIII. COMPENSATION FOR PLANNING RESTRICTIONS

(1) *Town and Country Planning Act, 1932*

389. We recommend that the power of the Minister (or Central Planning Authority) to approve provisions in planning schemes excluding compensation should not be limited, as at present, to particular provisions specified in the Act, but, subject to certain general directions (*see* paragraph 390) and a few particular exceptions (*see* paragraph 391) should be general. (Paragraph 235.)

390. The general directions referred to in the previous paragraph should be those at present in force under Section 19 (2) (i) and Section 19(5)*; except that, as regards Section 19(2)(i), the Minister (or Central Planning Authority) shall have regard to the national interest as well as local circumstances. (Paragraph 236.)

391. The power to exclude compensation should be limited in respect of four specific matters only :—

(i) Permanent reservation against building, except in the circumstances referred to in Section 19(1)(e)* in which we suggest a small amendment. (Paragraph 238.)

(ii) Prescription of building lines, save in circumstances where compensation can be excluded under existing legislation ; *see* Section 19(1)(k)* as modified by Section 19(2)(v). (Paragraph 239.)

(iii) Existing buildings and uses within the provisions of Section 19(2)(ii)*, subject to certain important modifications (*see* paragraph 392) and

(iv) Mineral working—*see* Section 19(2)(iii)*, from which we suggest certain words should be deleted. (Paragraph 252.)

392. The effect of the provisions of Section 19(2)(ii)* is to give a practically unqualified right to the maintenance, replacement, extension and use of existing buildings notwithstanding that they are out of conformity with a planning scheme, unless compensation is paid. In view of the hampering effects on reconstruction and redevelopment of these provisions, we recommend that they should be modified. In particular, we recommend (i) that there shall

* *See* Appendix III.

be power to place a "life" on "non-conforming" buildings and uses with a view to securing conformity without compensation at the expiration of that "life" in any particular case, and (ii) that, if the planning authority consider it necessary to enforce conformity before the expiration of the "life", any compensation payable shall be assessed by reference to the remainder of the "life" still outstanding. This matter is dealt with in paragraphs 240 to 251.

(2) *Restriction of Ribbon Development Act, 1935*

393. We recommend that consideration should be given to the question of redrafting the compensation provisions (Sections 9 and 15)* of this Act, in view of the many difficulties which arise from them in their present form, both when taken alone and when considered in relation to the provisions of the Town and Country Planning Act, 1932. (Paragraph 256.)

CHAP. IX. BETTERMENT

(a) *Recoupment*

394. We recommend that local authorities should be given general powers to buy land compulsorily for recoupment purposes, subject to their obtaining the sanction of the Central Planning Authority (who, we assume, would in appropriate cases consult any other Government Department concerned) as regards the area to be acquired, and to their giving proper publication locally of their proposals so that affected parties may have the opportunity of making representations to the Central Planning Authority. It should be open to the Central Planning Authority, if they think fit, to depute a competent official to visit the locality to make informal enquiries into the matter, but in our view no public enquiry should be held, and there should be no right of appeal against the decision of the Central Planning Authority. (Paragraph 283.)

(b) *Recovery by Set-off*

395. We recommend that, from the date that our scheme for a periodic levy on increases in annual site values (*see* paragraph 397 below) is established by Act of Parliament, all statutory provisions for set-off against compensation, whether on acquisition or for injurious affection, should cease to operate, except in so far as they relate to increases in the value of undeveloped land outside "town areas" while it remains undeveloped.†

If, however, our "periodic levy scheme" is not accepted, we recommend the insertion in the Acquisition of Land (Assessment of Compensation) Act, 1919, of a general provision for setting off betterment against compensation payable on the compulsory acquisition of land by public authorities for whatever purpose. (Paragraph 288.)

(c) *Recovery by Direct Charge*

396. We recommend that, in view of the difficulties inherent in the present system of collecting betterment under the Town and Country Planning Act, 1932, and its failure to produce practical results, that system should be abandoned in favour of our scheme (*see* paragraph 397 below) for a periodic levy on increases in annual site values. (Paragraph 293.)

(d) *Recommended Scheme for Periodic Levy on Increases in Annual Site Values*

397. We recommend a scheme for a periodic levy on a proportion of increases in annual site values as revealed by quinquennial assessments made through the ordinary rating machinery, from whatever causes such increases arise other than by certain recent expenditure of the owner. This scheme is fully explained in paragraphs 308 to 347.

* *See* Appendix III.

† As to such undeveloped land, *see* Chap. IV.

398. Finally, we thank our Secretary Mr. H. F. Williams, and our Assistant Secretary, Mr. F. Schaffer. This is no formal statement. Unremitting care and industry we expected and received. To that, in the case of each of them, there were added a knowledge of administration and a high ability on which many demands were made. Our demands were more than met. To them it may appear they but tried to do the work expected of the Civil Service. We think they satisfied its ideals.

AUGUSTUS ANDREWES UTHWATT (*Chairman*).

JAMES BARR. *

C. GERALD EVE.

RAYMOND EVERSHED.

H. F. WILLIAMS (*Secretary*).

F. SCHAFER (*Assistant Secretary*).

14th August, 1942.

* With reservations (see pages 167-170)

NOTE OF RESERVATIONS BY MR. JAMES BARR.

I have the following objections to the recommendations contained in the Report.

I. According to the Acquisition of Land (Assessment of Compensation) Act, 1919:

Rule (2). "The value of land shall, subject as hereinafter provided, be taken to be the amount which the land, if sold in the open market by a willing seller might be expected to realise:" etc.

Rule (3). "The special suitability or adaptability of the land for any purpose shall not be taken into account, if that purpose is a purpose to which it could be applied only in pursuance of statutory powers, or for which there is no market apart from the special needs of a particular purchaser or the requirements of any Government Department or any local or public authority: Provided that any *bona fide* offer for the purchase of the land made before the passing of this Act which may be brought to the notice of the arbitrator shall be taken into consideration."

The Report criticises the latter Rule on the ground that it does not effectively deal with the broad question of principle whether, in determining the compensation payable for land, any increased value or element of value due to the demand for land generally by Government Departments, local or public authorities, or any statutory undertakers, should be ruled out.

It is argued in paragraph 188 of Chapter VII that "if the principle be accepted, inherent in the existence of a power of compulsory acquisition, that private ownership of land carries with it the duty of surrendering land to the community when the needs of the community require it, it seems to us to follow that the demands to satisfy those needs ought not to be a source of private profit."

A recommendation is, accordingly, made in that paragraph that "no account shall be taken of any increased value or element of value arising from the actual or possible demands for the land or other land by any Government Department, local or public authority, or any statutory undertaker," etc.

The argument in justification of the proposed alteration of Rule (3) appears to be indefensible. It is one thing to say that the State can acquire land compulsorily and that private ownership carries with it the duty of surrendering land to the community when the needs of the community require it, but surely it does not follow that the owner is not to get a fair price for it? It may not even be a case of securing a private profit at all; indeed it will be shown later that financial loss is much more likely to eventuate.

The 1919 Act was passed at a time when local authorities for the first time took in hand the provision of housing in a wholesale manner. This was brought about largely by (a) restriction of rental, (b) increased and more desirable standards of housing, (c) increase in building costs, and (d) the immediate and greater demand for housing and ancillary buildings.

These factors created an uneconomic position. The extent to which subsidies and contributions from local rates have been necessary to balance rental with outgoings requires no elaboration. Private enterprise in housing has, therefore, been almost eliminated. It would not now be an exaggeration to state that in Scotland, of the total demand for land, Government and local authorities' demands represent say 75 per cent. and private demand 25 per cent. In England and Wales the proportion is somewhat different.

The principal test under Rule (2) of the 1919 Act is the value which the land if sold in the *open market* by a willing seller might be expected to realize. The proposed addition to Rule (3) excludes "public demand". How, therefore,

can it be argued there will now be an open market price if, in fact, 75 per cent., viz., the "public demand", is eliminated? For the purposes of the "development rights scheme" recommended in Chapter IV, the value upon which compensation is to be assessed and the estimate of the amount of the General Compensation Fund arrived at, will be in accordance with the operation of a restricted and privileged market. The sum to be paid is to represent the fair value *to the State* of the development rights as a whole (*see* paragraphs 79 to 89).

The requirements of "public demand" are now known to every local authority, and no doubt can be reasonably estimated by Government Departments and statutory undertakers. If the estimation of the value of land leaving out "public demand" and thus extending the deferment period is proceeded with, and private requirements are geared to and compared with the actual requirements for "public demand", a sufficiently drastic reduction in value will be brought about, but, pursuing the proposed new code of compensation to its logical conclusion, it would extend to the comparison of the total private demand throughout the whole country with the total area of suitable undeveloped land outwith the urban areas. This unfair comparison of area, coupled with an enormously extended period of deferment, would give a ridiculous result, particularly after credit for the agricultural value which, under the scheme, is retained by the owners. It would be directed against a selected section of the community.

The acquisition of development rights on such a basis will involve serious losses (a) to owners of practically all estates, almost all of whom have already paid death duties on the basis of a *genuine open market* (and in some cases on many occasions), (b) to private persons, charitable organisations and companies who have bought land to develop in a normal way and who have obtained loans to finance schemes having as security agricultural value plus potential building or development value; and (c) it will reduce future returns from death duties, and (d) it will destroy or limit private enterprise, and possibly bring about an increase in the price of houses which are provided by private development for another section of the community.

That the justice of the proposed basis of compensation for development rights excluding public demand is open to question is evident by the proposals to eliminate hardship, recommended in Chapter IV, paragraph 90. This proposal is in itself a confession of the inadequacy of the amount of compensation. It is only a palliative and a poor one, for, with the limitation of dates of purchase suggested, it would favour those purchasers of recent date who had suffered loss for a relatively short period, whereas the greatest number of hardship cases would, of course, be much earlier cases where there would be possibly greater losses, extending over a longer period.

"Public demand" and consequent development is only a service by the local authority, etc., to provide for the needs of a certain section of the community. The need of the remainder of the community is served through the medium of private development. Why should two sections of the community be differently treated?

Land cannot be regarded as a *monopoly* with the opening up of the whole country by rapid transport, and there appears, therefore, to be no justification on that account for differential treatment in arriving at a fair price for land compared with any other commodity. Exclusion of "public demand" was not adopted in arriving at the value of coal royalties; similarly in paying compensation for surface minerals such as sand and gravel, which will be extensively used for public schemes of development, that exclusion is not to be taken into account in arriving at the amount to be paid.

The general acceptance of the principle of ruling out "public demand" in determining the price of all other commodities—or of labour—would be just as absurd. Land is deemed to be a trustee investment—why apply a crippling basis of compensation to it, bringing further depreciation, or total loss?

There can be no two opinions that national planning is fundamental to make the best use of our land for the good of the community—control must be absolute—but that does not justify unfair or selective treatment. Apart from that I am in favour of the acquisition of development rights on fair compensation being paid.

To illustrate that an attack is specially directed against one commodity, viz., land :—

If the cost of a house be analysed, it will be found that of the total the proportion for land only amounts to about 5 per cent. A very slight increase in the cost of any of the materials or of the labour used can well exceed, and, indeed, has largely exceeded that proportion.

The price of land for housing purposes over a period of years has rather decreased than increased; the same cannot be said of the remaining elements of cost.

I am, accordingly, of opinion that the terms of Rule (3) of the Acquisition of Land (Assessment of Compensation) Act, 1919, should not be altered as recommended.

II. *Scheme for periodic levy on increases in annual site value* (Chapter IX, paragraphs 308 to 347).—The theory of the scheme is ingenious and probably is, in all the existing circumstances, as effective as can be suggested to achieve the end in view.

In these days of uneconomic inconsistencies and anomalies to be found practically in all urban property, the allocation of "value of site" and of "structure" is difficult—if, indeed, not impossible—except on an arbitrary basis.

The scheme sets out to do this in order that a datum for the site value of every separate property may be fixed at a given date, from which possible increases are to be measured at recurring five-year periods. Any increases in the total value of site and structure revealed at the quinquennial dates will have to be allocated again so as to ascertain whether or not the site value has increased. In arriving at this calculation, a sum not exceeding 4 per cent. of the capital cost is allowed* as a deduction where it can be shown that the owner has outlaid capital in improving the site value, such as by providing accesses (e.g. roads, bridges, sidings), or in changing the levels of the site, etc., but any allowances in respect of interest on capital expenditure by the owner for improvements to the structure are not to be granted as a deduction. This I consider to be wrong in principle, as the whole or a substantial proportion of increased annual value may be attributable to alterations on or development of the structure. The compromise of only levying 75 per cent. of the ascertained increase, leaving 25 per cent. to the owner, is not a satisfactory manner of granting the owner some allowance towards interest on the capital expenditure on the structure. Further, the scheme appears to have the following disabilities :—

(1) It is too late.

(2) It would be expensive to administer. There would be innumerable and difficult appeals, to deal with which a specially constituted technical Court would be required.

* See para. 320.

- (3) It would discourage enterprise, as it only works one way, viz., to collect alleged "betterment", but does not provide for recompensing "worsement".
- (4) There would be a difficulty in many cases in assessing and recovering from the person who had enjoyed the benefit and who should pay the levy.
- (5) The financial results might well be disappointing, looking to the difficulties and costs of administration.

III. *Suggested Official Arbiter for Scotland.*—It is suggested in paragraph 220 of the Report that it would be preferable to have an official arbiter appointed for Scotland, as was the case between 1920–1931.

I consider the present Panel from which arbiters are selected is an admirable system, and see no need to make a change. The contending parties have the opportunity of selecting one whose particular experience is suitable to the case on hand.

There have been some suggestions that the present system is looked on with disfavour by the acquiring authorities, and that there has been on their part an inclination to make an unfavourable settlement rather than risk an uncertain award, and also that more uniform awards would be given by an official arbiter. If this view is accepted probably one official arbiter would be sufficient, but an important criticism is that he would not be so closely in touch with current events as to fully appreciate all changes and might become stereotyped, and also that it is too much to expect one arbiter to possess a wide experience of all the various problems of compensation.

JAMES BARR.

APPENDICES

APPENDIX I

LIST OF ORGANISATIONS AND LOCAL GOVERNMENT AUTHORITIES FROM WHOM EVIDENCE HAS BEEN RECEIVED

The following is a list of the Organisations and Local Government Authorities referred to in paragraph 2 of the Report, from whom written evidence has been received :—

Aberdeen Corporation.
 Association of British Chambers of Commerce.
 Association of Consulting Engineers.
 Association of County Councils in Scotland.
 Association of Municipal Corporations.
 Auctioneers' and Estate Agents' Institute of the United Kingdom.
 Bourneville Village Trust.
 Brewers' Society.
 Building Societies' Association.
 Central Landowners' Association.
 Chartered Surveyors' Institution.
 Conjoint Conference of Public Utility Associations.
 Convention of Royal Burghs.
 County Councils' Association.
 Federation of Multiple Shops.
 Glasgow Corporation.
 Henry George School of Economics.
 House Builders' Association of Great Britain.
 Incorporated Association of Architects and Surveyors.
 Incorporated Society of Auctioneers and Landed Property Agents.
 Institute of Registered Architects.
 Institution of Civil Engineers.
 Institution of Municipal and County Engineers.
 Land Agents' Society.
 Land Union.
 London City Corporation.
 London County Council.
 Metropolitan Boroughs' Standing Joint Committee.
 National Association of Local Government Officers.
 National Association of Registered House-builders.
 National Federation of Housing Societies.
 National Federation of Property Owners.
 National Federation of Property Owners and Factors of Scotland.
 National Housing and Town Planning Council.
 1940 Council.
 Parliamentary Land Values Group.
 P.E.P. (Political and Economic Planning).
 Property Owners' Protection Association, Ltd.
 Royal Institute of British Architects.
 Rural District Councils' Association.
 Scottish Land and Property Federation.
 Town and Country Planning Association.
 Town Planning Institute.
 Trades Union Congress.
 Urban District Councils' Association.
 West Midland Group on Post-War Reconstruction and Planning.

APPENDIX II

FORMAL PROCEDURE FOR THE PREPARATION AND BRINGING INTO
OPERATION OF A PLANNING SCHEME UNDER THE TOWN AND COUNTRY
PLANNING ACT, 1932*

NOTE.—The references in the second column are to Sections of the Act and Articles of the Town and Country Planning Regulations, 1933.

Possible stages, the occurrence of which is very rare, are shown in square brackets.

1. Before passing the resolution to prepare a scheme.—Arrangements for joint planning by several authorities through a joint committee or in some other manner should preferably be made at this stage. If the scheme includes territory under the jurisdiction of any local authority other than the authority preparing the scheme the Regulations provide that this interested local authority must be consulted at each stage, being supplied with copies of the proposed resolutions, draft schemes, etc., and afforded an opportunity to inspect the maps and make representations. They must also be supplied with copies of the resolutions, etc., after they have been formally passed. These requirements are not referred to again at each of the separate stages below.

Art. 30.

Certain "prescribed persons" have also to be notified of all deposits for inspection and of the laying before each House of Parliament. These are the Minister of Agriculture, the Commissioners of Works, the Minister of War Transport, the Postmaster-General, the Board of Education, the Electricity Commissioners, statutory undertakers having land in the area. These notices are also not referred to at each separate stage.

Art. 5 (1).

2. (1) Planning authority pass resolution to prepare scheme, and take consequential action :

Art. 10 (1).

(a) advertise in press for two weeks, stating that suggestions may be sent to authority ;

Art. 10 (2).

(b) arrange for deposit of resolution map ;

Art. 10 (2) & 7.

(c) send copy of advertisements to Minister ;

Art. 8.

(d) consider representations received ;

Art. 10 (3).

[(e) modify area by further resolution if necessary ;

Art. 10 (3).

(f) if area is modified give fresh notices in press, etc., stating that objections may be sent to Minister ;]

Art. 11 (2).

(g) submit resolution and map to Minister for approval, together with certain other documents.

Art. 11 (1).

(2) Minister approves, disapproves or modifies resolution, [holding local inquiry if he thinks fit.] Resolution takes effect unless disapproved.

Art. 11 (3) & (4).

(3) Planning authority then :

(a) advertise approval of resolution in local newspaper and London Gazette ;

Sec. 7 (1)

(b) send copy of advertisement to Minister ;

Art. 8.

(c) serve notices on all owners and occupiers shown in assessment of income tax under Schedule A, inviting owners to register for service of further notices ;

Sec. 7 (1) (b)

(d) send certificate of service of notices to Minister ;

Art. 8.

(e) prepare register of owners who apply.

Sec. 7 (4)

(Before further procedure outlined below is followed, details of the proposed scheme are worked out, involving the carrying out of surveys, consultation with owners, preparation of map, etc., etc. This is the principal part of the authority's work in the preparation of a scheme and takes the bulk of the time spent on it. By Art. 12 (1) of the Regulations the draft scheme should be adopted not later than two years from the date on which the resolution to prepare the scheme took effect, but the Minister has power to extend the period and in the past extension has usually been required.)

3. Planning authority adopt draft scheme at meeting of which special notice has been given, and take consequential action :

Art. 12 (1) & (2).

(a) advertise in press for two weeks stating that objections, etc., may be sent to authority ;

Art. 13 (1).

(b) notify owners, etc., on register ;

Sec. 7 (7).

(c) send copies of advertisements and certificate of service of notices to Minister ;

Art. 8

* See para. 138

- (d) arrange for deposit of draft scheme and map ; Art. 13 (1) & (7).
 (e) consider objections and representations received ; Art. 13 (2).
 (f) hear persons making objections and representations, if required to. Art. 13 (2).
 (Planning authority here decide to what extent draft scheme shall be modified, and prepare scheme and map in final form for approval.)
4. **Planning authority make scheme** at meeting of which special notice has been given. (Art. 14 (1) of the Regulations provides that the resolution making the scheme should be passed within nine months of the resolution of adoption. As in the case of other time limits, the Minister has power to extend the period.) Art. 14 (1) & (3).
5. (1) **Planning authority submit scheme for approval**, together with copies of outstanding objections and other documents and information, and take consequential action : Art. 14 (4).
 (a) advertise in press for two weeks, stating that objections may be sent to Minister ; Art. 14 (5).
 (b) notify registered owners, etc. ; Sec. 7 (7).
 (c) send copies of advertisements and certificate of service of notices to Minister ; Art. 8.
 (d) arrange for deposit of scheme and map for inspection. Art. 14 (5) & (7).
 (2) Minister considers objections, etc., and holds local inquiry if any objections not met. Art. 15 (1).
6. (1) **Minister decides to approve scheme** with or without modifications or to disapprove it, after considering scheme and report of inquiry. Where, as is usual, scheme is to be approved with modifications, Minister furnishes planning authority with copy of scheme and map as proposed to be modified. Art. 15 (2) & 16 (1).
 (2) Planning authority then :
 (a) advertise in press for two weeks, stating that new objections may be sent to Minister ; Art. 16 (1) & (2).
 (b) notify registered owners, etc. ; Sec. 7 (7).
 (c) send copies of advertisements and certificate of service of notices to Minister ; Art. 8.
 (d) arrange for deposit of modified scheme and map. Art. 16 (2) & (7).
 [(3) Minister holds local inquiry if planning authority so requests.] Art. 16 (4).
 (4) Minister then considers objections [and report of inquiry] and if further modifications are proposed : Art. 17.
 (a) notifies planning authority ; Art. 17.
 [(b) if requested by planning authority, holds further local inquiry ;] Art. 17.
 (c) approves scheme. Art. 17.
7. (1) **Approved scheme laid before both Houses of Parliament.** 1st Sched. to Act—Part I, para. 1.
 (2) Minister informs planning authority who take consequential action Art. 15 (2) or 17.
 (a) advertise approval and laying before Parliament in press for two weeks ; Art. 18.
 (b) notify registered owners, etc. ;
 (c) send copies of advertisements and certificate of service of notices to Minister ; Sec. 7 (7).
 (d) arrange for deposit of scheme and map for inspection. Art. 8.
 Art. 18 (1) & (7).
- [8. Where Minister undertakes to modify scheme, as a result of Parliamentary proceedings, procedure as in 6 above is again required.] 1st Sched. to Act—Part I, para. 4.
9. **When scheme has passed through Parliament** and is capable of coming in to operation, planning authority : 1st Sched. to Act—Part II, para. 1.
 (a) advertise once in press Sec. 7 (7).
 (b) notify registered owners, etc. Art. 8.
 (c) send copy of advertisement and certificate of service of notices to Minister ; 1st Sched. to Act—Part II, para. 1.
 (d) arrange for deposit of scheme and map for inspection. Part II, paras. 2 & 4.
10. **Scheme comes into operation** six weeks after date of advertisement, unless validity challenged in High Court by aggrieved person. 1st Sched. to Act—Part II, para. 3.
- [11. Where validity challenged, High Court may quash scheme or any provision of scheme.]

APPENDIX III

PROVISIONS RELATING TO COMPENSATION AND BETTERMENT IN THE TOWN AND COUNTRY PLANNING ACT, 1932, AND COMPENSATION PROVISIONS OF THE RESTRICTION OF RIBBON DEVELOPMENT ACT, 1935

I. TOWN AND COUNTRY PLANNING ACT, 1932

Section 18. Provisions as to compensation for injurious affection

18.—(1) Subject to the provisions of this Act, any person—

(a) whose property is injuriously affected by the coming into operation of any provision contained in a scheme, or by the execution of any work under a scheme, or by the coming into operation of an order under section seventeen* of this Act, being a provision, work or order which infringes or curtails his legal rights in respect of that property; or

(b) who suffers damage by reason of any action taken by a responsible authority under section thirteen† of this Act; or

(c) who for the purpose of complying with any provision contained in a scheme, or in making or resisting a claim under the provisions of this Act relating to compensation and betterment, has incurred expenditure which is rendered abortive by a subsequent variation or revocation of the scheme,

shall, if he makes a claim within the time limited for the purpose by this Act, be entitled to recover as compensation from the responsible authority, or, if his claim arises out of the coming into operation of an order under section seventeen of this Act, from the council by whom the order was made, the amount by which his property is decreased in value, and, in the case of property on which he has carried on a trade or business or profession, the amount of any resulting injury to that trade or business or profession, or the amount of his damage, or, so far as it was reasonably incurred, the amount of the abortive expenditure, as the case may be.

(2) In awarding any compensation payable in respect of property injuriously affected by the coming into operation of any provision contained in a scheme, account shall be taken of any additional injurious affection of the property by reason that since the commencement of this Act the Minister has refused, on an appeal made to him under an interim development order, to grant an application for permission to develop the property, or that the Minister has imposed any conditions on the grant of such an application made since that date.

Section 19. Power of Minister to exclude compensation in certain classes of cases

19.—(1) Subject to the provisions of this section, a scheme may provide, either generally or as respects all property except such as may be specified for the purpose in the scheme, that no compensation shall be payable under paragraph (a) of subsection (1) of the last preceding section in respect of the injurious affection of property by the coming into operation of any provision of the scheme which—

(a) prescribes the space about buildings; or

(b) limits the number of buildings; or

(c) regulates, or empowers the responsible authority to regulate, the size, height, design or external appearance of buildings; or

(d) prohibits or restricts building operations only pending the coming into operation of a general development order; or

(e) prohibits or restricts building operations permanently on the ground that, by reason of the situation or nature of the land, the erection of buildings thereon would be likely to involve danger or injury to health, or excessive expenditure of public money in the provision of roads, sewers, water supply or other public services; or

(f) prohibits (otherwise than by way of prohibition of building operations) the use of land for a purpose likely to involve danger or injury to health, or serious detriment to the neighbourhood, or restricts (otherwise than by way of restriction of building operations) the use of land so far as may be necessary for preventing such danger, injury, or detriment; or

(g) restricts the manner in which buildings may be used; or

* Section 17 empowers the authority to make orders for the preservation of certain buildings of special architectural or historic interest.

† Section 13 empowers the authority to enforce schemes by the removal, alteration, etc., of buildings or by the execution of necessary works.

(h) in the interests of safety regulates or empowers the responsible authority to regulate the height and position of proposed walls, fences or hedges near the corners or bends of roads, other than highways maintainable at the material date by the Minister of Transport, a county council, or other highway authority; or

(i) limits the number, or prescribes the sites, of new roads entering a classified road, or a road, or the site of a proposed road, which is declared by the Minister of Transport to be intended to be a classified road; or

(k) in the case of land which at no time within the period of five years immediately preceding the material date was or formed part of, the site of a building, fixes in relation to any street or proposed street a line beyond which no building in that street or proposed street may project; or

(l) in the case of the erection of any building intended to be used for purposes of business or industry, requires the provision of accommodation for loading, unloading or fuelling vehicles with a view to preventing obstruction of traffic on any highway.

(2) The Minister shall not approve the insertion in a scheme of a provision excluding compensation under the last preceding subsection or himself insert in a scheme such a provision—

(i) unless he is satisfied that, having regard to the objects of the scheme, the provision in respect of which compensation is to be excluded is proper and reasonable and expedient having regard to the local circumstances;

(ii) if the provision in respect of which compensation is to be excluded is such a provision as is mentioned in paragraph (a), (b), (c), (d), or (g) of the said subsection, unless the scheme contains also provisions satisfactory to him for securing that—

(a) existing buildings may be maintained and their existing use continued; and

(b) reasonable alterations and, in proper cases, extensions of existing buildings may be made; and

(c) where an existing building or a building which was standing within two years before the material date is destroyed or demolished, a new building having at least an equal cubic content above the level of the ground and, in addition, in the case of premises used for business or industry, at least an equal superficial area on the ground floor, may be erected on the same site, if commenced within two years after the destruction or demolition of the previous building, or within such longer period as the responsible authority may permit; and

(d) a new building so substituted as aforesaid may be used for any purpose of the same or a similar character as that for which the previous building was last used before its destruction or demolition, notwithstanding that its use for that purpose would be contrary to the provisions of the scheme, unless such a use is declared in the scheme to be both contrary to the provisions thereof and also of a noxious or otherwise offensive character;

(iii) if the provision in respect of which compensation is to be excluded is such a provision as is mentioned in paragraph (f) of the said subsection, in so far as that provision—

(a) prohibits or restricts the winning of minerals by underground working;

(b) prohibits or restricts as respects any land the winning of minerals by surface working unless the land is reserved by the scheme, and has been substantially developed, for residential purposes; or

(c) prohibits or restricts as respects any land so reserved, the winning by surface working of minerals, if the Minister is satisfied, upon representations being made to him, that the minerals, or the right to win the minerals, had before the material date been acquired by some person for the purpose of winning them, or had before that date devolved upon some person desirous of winning them;

(iv) if the provision in respect of which compensation is to be excluded is such a provision as is mentioned in paragraph (i) of the said subsection, unless he is satisfied, if representations are made to him in any particular case, and the case appears to him to be a proper one, that reasonable means of access from neighbouring land to a highway will be provided;

(v) if the provision in respect of which compensation is to be excluded is such a provision as is mentioned in paragraph (h) of the said subsection, and, so far as concerns any particular land, unless he is satisfied, if representations are made to him as respects that land, that the area of the land of the owner fronting the street or proposed street will not be diminished to such an extent by the fixing of the building line as to render it less suitable for the erection of buildings in conformity with the provisions of the scheme.

(3) Notwithstanding the insertion in a scheme of such provisions satisfactory to the Minister as are mentioned in paragraph (ii) of the last foregoing subsection, if and in so far as any alteration or extension of an existing building, or the substitution of a new

building for a previous building, being an alteration, extension, or substitution which is authorised by, or might be permitted under, the said provisions, would not be in conformity with, or would contravene, any provision of the scheme, the responsible authority may prohibit that alteration, extension or substitution, but in that case the person whose property is injuriously affected by the prohibition shall, if he makes a claim within twelve months after receiving notice of the prohibition, be entitled, notwithstanding anything in subsection (1) of this section, to recover compensation in respect of that injurious affection from the responsible authority in accordance with the provisions of this Act.

(4) Notwithstanding the insertion in a scheme of such provisions satisfactory to the Minister as are mentioned in paragraph (ii) of subsection (2) of this section, if and in so far as the continuance of any existing building or of any existing use of an existing altered, extended or substituted building is not in conformity with, or contravenes, any provisions of the scheme, nothing in that subsection shall be construed as precluding the responsible authority from exercising at any future time their powers under section thirteen of this Act in respect of that use, subject, however, to payment of compensation in accordance with the provisions of paragraph (3) of subsection (1) of section eighteen of this Act.

(5) In considering whether he ought to approve the insertion in a scheme of a provision excluding compensation, or ought himself to insert such a provision, the Minister shall have regard to—

(a) the nature and situation and existing development of the land affected by the provision in respect of which compensation is excluded and of neighbouring land not so affected; and

(b) the interests of any person who would be affected by the provision in respect of which compensation is excluded.

Section 20. Exclusion or limitation of compensation in certain other cases

20.—(1) No compensation shall be payable under this Act in respect of any property on the ground that it has been injuriously affected by any provision contained in a scheme, if and in so far as the same provision or a provision substantially to the same effect was, at the date when the scheme came into operation, already in force by virtue of some Act, not being either this Act or an Act repealed by this Act.

(2) A person shall not be entitled to recover compensation under this Act in respect of any action taken by a responsible authority under section thirteen of this Act except in a case where a building or work which the authority have removed, pulled down or altered, was an existing building or an existing work, or a use of a building or land which they have prohibited was an existing use.

(3) Where any provision contained in a scheme could immediately before the date on which the scheme came into operation have been validly included in a scheme, order, regulation or byelaw by virtue of any other Act in force at that date, then—

(a) if no compensation would have been payable in respect of injury caused by the coming into operation of that provision in that other scheme, or that order, regulation or byelaw, no compensation shall be payable in respect of that provision of the scheme under this Act; and

(b) if compensation would have been so payable, the compensation payable in respect of that provision of the scheme under this Act shall not be greater than the compensation which would have been so payable.

(4) Where any provision of a scheme, whether made under this Act or under any Act repealed by this Act, is revoked by a subsequent scheme, no compensation shall be payable in respect of any property on the ground that it has been injuriously affected by any provision contained in the subsequent scheme if and in so far as that later provision is the same, or substantially the same, as the earlier provision so revoked; but if at the date when the revocation of that earlier provision becomes operative—

(a) there is still outstanding any claim for compensation duly made thereunder; or

(b) the time originally limited for making such a claim has not expired, any such outstanding claim and any such claim made within the time so limited shall be entertained and determined, and may be enforced, in the same manner in all respects as if all the provisions of the earlier scheme had continued in operation.

Section 21. Recovery of betterment from owners of property increased in value

21.—(1) Where by the coming into operation of any provision contained in a scheme, or by the execution by a responsible authority of any work under a scheme, any property is increased in value, the responsible authority, if within twelve months after the date on which the provision came into operation or such longer period as may be specified in the scheme, or within twelve months after the completion of the work, as the case may be, they make a claim in that behalf, may, subject to the provisions of this Act, recover from

the person whose property is so increased in value an amount not exceeding seventy-five per cent. of the amount of that increase:

Provided that, except where the person against whom the claim is made has claimed from the responsible authority, by way of compensation under this Act in connection with the scheme and in respect of any injurious affection other than injurious affection immediately suffered, an amount not less than the amount claimed by the responsible authority under this section and the claim for compensation has been allowed in an amount not less than the amount claimed by the responsible authority as aforesaid, or is outstanding, that person may at any time within twenty-eight days after service on him of the claim give notice in writing to the responsible authority requiring them to defer the claim, and in that event the claim shall be withdrawn.

(2) Where a notice has been given in respect of any property under the last preceding subsection, the responsible authority shall be entitled to make a fresh claim against the person who gave the notice in respect of any increase in the value of the property due to the coming into operation of any provision contained in the scheme or by the execution by the authority of any work under the scheme—

(a) on the taking effect at any time within fourteen years from the date of service of the said notice of a disposition of the property;

(b) on the taking place at any time within the said period of fourteen years of a change of use of the property;

(c) in the case of property which was at the date of the original claim used for the purposes of any business or industry, and in respect of which there has not within the period of five years next after the date of the service of the notice been made any claim under paragraph (a) or (b) of this subsection, at any time within a period of twelve months after the expiration of the said period of five years:

Provided that no claim shall be made—

(i) under paragraph (b) of this subsection, if the new use of the property is a use as arable, meadow or pasture ground, or as market gardens, nursery grounds, orchards or allotments, or for a plantation or a wood, or for the growth of saleable underwood, or as allotment gardens within the meaning of the Allotments Act, 1922, or (being land which exceeds one quarter of an acre) for the purpose of poultry farming; and

(ii) under paragraphs (b) or (c) of this subsection in the case of property belonging to a statutory undertaker.

(3) If a claim is made on a disposition of property or, in the case of property used for the purposes of any business or industry, on the expiration of the said period of five years, the responsible authority may recover a sum not exceeding seventy-five per cent. of the amount by which the property has been increased in value by the coming into operation of the provision or by the execution of the work in respect of which the original claim was made, and the date of the fresh claim shall be the date by reference to which the increase in value shall be determined, and thereafter no further claim shall be made under this section in respect of that property.

(4) If a claim is made on a change of use of property taking place, the responsible authority may recover a sum not exceeding seventy-five per cent. of the amount by which the property has for the purposes of its new use been increased in value by the coming into operation of the provision or by the execution of the work in respect of which the original claim was made and, on any subsequent change of use taking place or upon any disposition of the property taking effect within the period of fourteen years a fresh claim may be made.

(5) In assessing the amount of any sum payable under this section in respect of any property, account shall be taken—

(a) of any principal sum paid or payable to the responsible authority in respect of the property under a claim previously made under this section; and

(b) of any gift of property whether real or personal, or any concession made or any works executed under arrangement with the responsible authority, by any person against whom the claim under this section in respect of the property is made or his predecessors in title, with a view to facilitating the making or carrying into effect of the scheme.

(6) Any sum recoverable under this section may be paid either immediately or by such instalments spread over a period not exceeding thirty years as may be agreed or determined under this Act, and where payment is made by instalments interest at such rate as may from time to time be fixed by the Treasury shall be chargeable on the aggregate amount of the instalments for the time being outstanding, but notwithstanding any such agreement or determination the person from whom such instalments are due may, on giving not less than six months' notice in writing to the responsible authority of his intention so to do, pay to them the whole of any outstanding instalments, together with any interest accruing due thereon to the date of payment.

(7) A person who gives a notice under subsection (1) of this section shall, within one month after the date on which any such disposition as is mentioned in paragraph (a) of subsection (2) of this section takes effect or any such change of use as is mentioned in paragraph (b) of the said subsection (2) takes place, give written notice thereof to the responsible authority and shall, within one month after receiving from the responsible authority

a demand in that behalf (which demand shall be made not later than the expiration of two months after the giving of the notice), furnish to the authority such particulars as they may reasonably require for the purposes of this section :

Provided that, if at any time the responsible authority make a claim which under the provisions of subsection (3) of this section is final, they shall notify the person who gave the notice under subsection (1) of this section that no further notice of disposition or change of use need be sent.

(8) A claim made on a disposition of property taking effect, or on a change of use taking place, shall be made not later than the expiration of twelve months from the date on which notice is given to the responsible authority under subsection (7) of this section of the disposition or change of use, or, where particulars are demanded by the authority, the date on which the particulars are furnished to the authority :

Provided that, where a disposition is by way of lease or tenancy agreement for a term of less than seven years, the claim shall be made not earlier than the expiration of the seventh year from the date on which the said term commenced.

(9) The provisions of this section shall apply to a disposition of, or a change of use of, a part of any property in respect of which notice has been given under subsection (1) of this section as they apply in relation to a disposition of or a change of use of the whole of that property.

(10) Where any provision of a scheme, whether made under this Act or under any Act repealed by this Act is revoked by a subsequent scheme, no property shall be deemed to be increased in value by any provision contained in the subsequent scheme if and in so far as that provision is the same, or substantially the same, as a provision contained in the scheme so revoked :

Provided that, if at the date when the revocation of the said scheme becomes operative there is still outstanding any claim in respect of an increase in the value of any property duly made thereunder, or the time originally limited for making such a claim has not expired, any such outstanding claim, and any such claim made within the time so limited, shall be entertained and determined and may be enforced, in the like manner in all respects as if all the provisions of the earlier scheme had continued in operation.

(11) In this section the expression "disposition" means a disposition by way of sale (including a sale in consideration of a rentcharge or other periodical payment) or by way of lease or tenancy agreement for a period of not less than three years, and references to the person who gives a notice under subsection (1) of this section shall where a devolution of the property to which the notice relates has occurred since the notice was given, be construed as references to the person on whom the property to which the notice relates last devolved before the date on which a disposition takes effect or a change of use takes place.

(12) For the purposes of this section a change of use of property shall not be deemed to have occurred if the character of the new use is similar to that of the previous use.

Section 22. Making of claims for compensation

22.—(1) A claim under this Act for compensation or in respect of an increase in the value of any property shall be made by serving upon the authority, council or person from whom the amount alleged to be payable is claimed, a notice in writing stating the grounds of the claim and the amount claimed.

(2) Subject to the provisions of this Act, a claim under this Act for compensation may be made within twelve months after the date on which the provision giving rise to the claim came into operation or within such longer period as may be specified in the scheme, or if the claim is a claim for compensation in respect of action taken by a responsible authority under section thirteen of this Act, or in respect of the coming into operation of an order under section seventeen of this Act, or in respect of expenditure rendered abortive by the variation or revocation of a scheme, within twelve months after the date on which the action was completed, or the order came into operation, or the variation or revocation of the scheme became operative.

(3) Where it is alleged that land which, at or within two years before the material date, formed the site of a building has been injuriously affected by a provision fixing, in relation to any street or proposed street, a line beyond which no building in that street or proposed street may project, then, subject to any agreement to the contrary, the period within which a claim for compensation may be made in respect of that land shall be a period of twelve months after the date on which a new building is erected on the site in conformity with the line so fixed :

Provided that, if in the case of any such land a claimant alleges in his claim, and proves to the satisfaction of the arbitrator, that it is not reasonably practicable to erect any new building on that land in conformity with the line so fixed, and, where the building is standing at the date on which the scheme comes into operation, has before commencing to demolish the building given notice to the responsible authority in accordance with the provisions of the next succeeding subsection, a claim made by him at any time within a period of twelve months after the date on which the building is demolished or the date on which the scheme comes into operation, whichever last occurs, shall be deemed to be validly made and shall be entertained by the arbitrator.

(4) A person who intends to claim compensation in respect of any such land as is mentioned in the proviso to the last preceding subsection shall, if the building is standing at the date on which the scheme comes into operation, not less than three months before he commences to demolish the building, give notice in writing of his intention to the responsible authority, and that authority may, at any time before the expiration of two months from the receipt by them of the notice, require him to sell to them the site and the buildings thereon, and thereupon the provisions of this Act with respect to the compulsory acquisition of land by a responsible authority shall apply in relation to that site and any buildings thereon as they apply in relation to land required by such an authority for the purposes of a scheme.

(5) Where it is alleged that property has been injuriously affected by the execution of any work, the period within which a claim in respect of that injurious affection may be made shall be a period of twelve months after the completion of the work.

Section 53. Interpretation (Definition of "existing building", "existing work" and "existing use")

"Existing building" and "existing work" mean respectively a building or work erected, constructed or carried out before the material date, and include also a building or work—

- (i) erected, constructed or carried out in pursuance of a contract made before the material date; or
- (ii) begun before, but completed after, that date; or
- (iii) erected, constructed or carried out in accordance with the terms of an interim development order, whether made under this Act or any Act repealed by this Act, or of permission granted under such an order:

Provided that—

(a) a building erected or constructed in substitution for a previous building in accordance with the provisions of the scheme relating to substituted buildings shall be deemed to be an existing building; and

(b) a building shall not cease to be, or to be deemed to be, an existing building by reason of its alteration or extension in accordance with the provisions of the scheme relating to the alteration or extension of existing buildings, and any such alteration or extension shall itself be deemed to be part of the existing building;

"Existing use" means, in relation to any building or land, a use of that building or land for any purpose of the same or a similar character to that for which it was last used before the material date, or, in the case of a newly erected building which has not been used before that date, a use for any purpose for which it was designed, and includes in any case any use of a building or land permitted by or under an interim development order, whether made under this Act or any Act repealed by this Act:

Provided that—

(i) if at any time after the material date the existing use of a building is discontinued for a period of eighteen months, no use of that building at any subsequent date shall be deemed to be an existing use thereof;

(ii) where at the material date a person who was using any land for the purpose of mining, quarrying, the digging of clay, gravel or sand, or the deposit of waste materials or refuse, or any other purpose of a similar nature, was entitled also to use neighbouring land for any such purpose, the user under that title of that neighbouring land for any such purpose, whether before or after the material date, shall be deemed to be an existing use.

II. RESTRICTION OF RIBBON DEVELOPMENT ACT, 1935

Section 9. Compensation for injurious affection under sections 1 and 2

9.—(1) Subject to the provisions of this section, if any person having any estate or interest in land, which includes any piece of land subject to restrictions in force under section one or section two of this Act,* proves that his estate or interest is injuriously affected by the restrictions, he shall be entitled to recover from the highway authority compensation for the injury to that estate or interest; and any question whether compensation is payable under this section or as to the amount of any compensation so payable shall, in default of agreement, be determined by an official arbitrator under the Acquisition of Land (Assessment of Compensation) Act, 1919:

Provided that, without prejudice to the power of a highway authority to agree with any claimant as to the payment of compensation, no claim for compensation under this section in respect of injurious affection to any estate or interest shall be entertained by an arbitrator—

(a) unless the claimant satisfies the arbitrator—

- (i) that proposals for the development of that land which at the date of the claim to compensation are immediately practicable or would have been so if this act had not been passed, are prevented or injuriously affected by the restrictions; and
- (ii) that there is a demand for such development;

* Sections 1 and 2 empower the reservation of standard widths of roads, the protection of access to roads, and the prohibition of buildings within 220 feet of the middle of "classified roads."

(b) if within two months after the claim to compensation has been delivered to the highway authority, notice is served on the claimant that proceedings are being taken under this or any other Act for an order authorising the compulsory purchase of the piece of land and notice to treat with respect thereto is, within twelve months after the claim, served by the highway authority in pursuance of such an order, so however that in any case in which notice that such proceedings as aforesaid are being taken is served the claimant shall be entitled to be repaid by the highway authority the amount of any expense which he may have properly incurred in connection with the preparation and submission of his claim for compensation under this section, and any question as to whether such expense has been properly incurred or as to the amount thereof shall, in default of agreement, be determined by an official arbitrator under the Acquisition of Land (Assessment of Compensation) Act, 1919.

(2) No compensation shall be payable under this Act in respect of injurious affection to any estate or interest in any land by reason of a piece of land being subject to restrictions in force under this Act—

(a) if and in so far as the piece of land is subject to substantially similar restrictions in force under some other Act which were so in force at the date when the restrictions came into force under this Act; or

(b) if compensation in respect of the same restrictions in force under this Act or of substantially similar restrictions in force under some other Act has already been paid to any predecessor in title to that estate or interest.

(3) Where any land acquired by a highway authority after the passing of this Act is utilised for the widening of a road or the construction of a new road, no compensation shall be payable under this section in respect of adjacent land by reason of restrictions as to means of access in force under this Act relating to the road as so widened or constructed:

Provided that, where the road as so widened or constructed incorporates land which before the widening or construction was a road or was before the passing of this Act a proposed road, compensation shall be payable under this section in respect of any adjacent land not acquired by the highway authority as if the restrictions as to means of access had related to the road or proposed road so incorporated, and as if the widening thereof or the construction of the new road, as the case may be, had not taken place.

(4) In awarding compensation under this section in respect of any estate or interest in land, the compensation shall, subject to the provisions of this section, be a sum equal to the difference between the market value of the estate or interest when the piece of land is subject to the restrictions and what would have been the market value of that estate or interest if the piece of land had not been so subject:

Provided that—

(a) In assessing the market value of the estate or interest when the piece of land is subject to the restrictions, there shall be taken into account any modification of those restrictions by reason of any consent given by the highway authority and any conditions attached to such consent, or by reason of any undertaking given or proposed to be given by the highway authority and any such consent, conditions, or undertaking, shall be embodied in the award;

(b) there shall be taken into account any benefit which may accrue to any land in which the claimant has an estate or interest by reason of the construction or improvement, by any other person at any time after the coming into force of restrictions under this Act, upon land adjacent to the land in respect of which compensation is claimed, of any road or of any carriageway or other way subsidiary to such a road, or by reason of the coming into force of the restrictions;

(c) if the piece of land has, since the date on which the restrictions came into force, become, or ceased to be, separate from other land, the amount of compensation shall not be enhanced by reason of its having so become or ceased. For the purposes of this paragraph a piece of land shall be deemed to be separate from other land when the person having the estate or interest therein in respect of which compensation is claimed has not the like estate or interest in the other land.

(5) Where any compensation is payable under the provisions of this section in respect of injurious affection to any estate or interest in any piece of land, being glebe land or other land belonging to an ecclesiastical benefice, the sums agreed upon or ordered to be paid by way of compensation for that injurious affection shall be paid to the Ecclesiastical Commissioners, to be applied by them as money paid to them upon a sale, under the provisions of the Ecclesiastical Leasing Acts, of land belonging to a benefice.

Section 15. Effect of restrictions where land is acquired compulsorily

15. Where land subject to restrictions in force under section one or section two of this Act is acquired by a highway authority by means of an order made under this or any other Act authorising compulsory purchase of the land, any compensation payable in respect of any estate or interest in the land shall be assessed as if the restrictions were not in force if compensation in respect of injury to that estate or interest occasioned by the restrictions has been paid under this Act neither to the person having that estate or interest nor to any of his predecessors in title.



MINISTRY OF WORKS AND PLANNING

REPORT
OF THE
COMMITTEE ON LAND
UTILISATION IN RURAL
AREAS

*Presented by the Minister of Works and Planning
to Parliament by Command of His Majesty
August, 1942*

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THIS IS FROM
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Committee on Land Utilisation in Rural Areas.

Constitution of the Committee.

The Rt. Hon. Lord Justice Scott, P.C. (*Chairman*).

Mr. L. Dudley Stamp, D.Sc., B.A. (*Vice-Chairman*).

Mr. Robert Cobb, P.P.S.I., J.P.

Mr. H. S. Cooper, F.C.A.

The Lady Denman, D.B.E.

Professor S. R. Dennison, M.A.

Mrs. Hermione Hitchens, A.R.R.C., J.P.

Mr. A. E. Monks, J.P.

The Rt. Hon. the Earl of Radnor.

Mr. R. Hugh Roberts.

Mr. Philip Robinson.

Mr. R. Alec Ward.

Mr. Thomas Sharp,

Mr. B. C. Engholm,

Joint Secretaries.

The Committee originally included the Rt. Hon. Lord Addison of Stallingborough, P.C., and Mr. Laurance Ramsbottom. Lord Addison retired from the Committee in February, 1942. Mr. Ramsbottom died on the 6th January, 1942.

Terms of Reference.

" To consider the conditions which should govern building and other constructional development in country areas consistently with the maintenance of agriculture, and in particular the factors affecting the location of industry, having regard to economic operation, part-time and seasonal employment, the well-being of rural communities and the preservation of rural amenities "

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CONTENTS.

	<i>Page</i>
INTRODUCTION	iv
PART I.—THE PRESENT POSITION	I
Chapter I: The Land	1
Chapter II: The Countryside	3
1. The pattern of the countryside... ..	3
2. Origins of the landscape pattern	9
3. Changes during last few decades	14
4. Drift from the land	16
Chapter III: The Impact of Town on Country	21
1. The physical impact	21
2. The townsman in the country	26
Chapter IV: Effects of Urban Growth on Countryside	27
Chapter V: War and Probable Post-War Trends	33
1. War	33
2. Probable Post-War Trends	37
Chapter VI: Planning Powers	39
1. Town and Country Planning Act, 1932	39
2. Restriction of Ribbon Development Act, 1935	44
PART II: RECOMMENDATIONS—	
Chapter VII: Measures for Revivification of Country Areas	45
Chapter VIII: Preservation of Countryside	57
Chapter IX: Industry in Country Areas	60
Chapter X: Housing and Planning in Country Areas	70
Chapter XI: Miscellaneous Constructional Development	75
PART III: PLANNING AND DEVELOPMENT: MACHINERY AND PROCEDURE—	
Chapter XII: Central Planning Authority (Machinery)	80
Chapter XIII: Procedure	84
PART IV: A FIVE YEAR PLAN FOR BRITAIN	89
PART V: SUMMARY OF RECOMMENDATIONS AND SUGGESTIONS	91
NOTE OF RESERVATION BY PROFESSOR DENNISON AND MRS. HICHENS	99
MINORITY REPORT BY PROFESSOR DENNISON	100
ADDITIONAL MEMORANDUM BY THE CHAIRMAN, VICE-CHAIRMAN, MR. H. S. COOPER, MR. A. E. MONKS AND MR. P. ROBINSON	124
APPENDIX: LIST OF EVIDENCE	125
INDEX	129
DIAGRAMS—	
1. Land Classification map of England and Wales	6
2. Changes in population in England and Wales 1931-38	7
3. Types of farming map of England and Wales	8
4. Graph showing speed of growth of Greater London	24

INTRODUCTION

To the Right Honourable LORD PORTAL OF LAVERSTOKE, D.S.O., M.V.O.,
Minister of Works and Planning.

SIR,

We were appointed in October, 1941, by Lord Reith of Stonehaven as Minister of Works and Buildings, in consultation with Mr. Hudson as Minister of Agriculture, with the following Terms of Reference:

"To consider the conditions which should govern building and other constructional development in country areas consistently with the maintenance of agriculture, and in particular the factors affecting the location of industry, having regard to economic operation, part-time and seasonal employment, the well-being of rural communities and the preservation of rural amenities."

These Terms of Reference were for England and Wales and did not include Scotland.

At our first meeting Lord Reith, addressing us on behalf of himself and Mr. Hudson, pointed out the width, variety and importance of our enquiry. The Royal Commission on the Distribution of the Industrial Population had taken the view that agriculture was outside its Terms of Reference; and consequently that it was precluded from considering the effects upon agriculture of the decentralisation and dispersal of industry and population which it recommended, or the conditions to be enforced for the protection of agriculture, or otherwise. One of the objects of our appointment would therefore seem to be to consider and advise upon these two matters thus left open by the Royal Commission.

At the request of the Chairman, confirmed by Lord Reith, Dr. Dudley Stamp undertook the office of Vice-Chairman.

We held our first meeting on 23rd October, 1941, and continued to sit regularly in morning and afternoon sessions until 23rd July, 1942—the 60th day of our meetings. During that time, in addition to a wide range of published works which we examined individually, we studied over a hundred memoranda specially prepared by 111 government departments, authorities, organisations and individuals and examined orally the representatives of 53 organisations and 18 individuals. We tender our grateful and sincere thanks to all those who in these diverse ways made our work possible. In addition to several investigations made individually in the field, we held one meeting at the Impington Village College, Cambridgeshire, by courtesy of Mr. Henry Morris, C.B.E., Director of Education for Cambridgeshire.

In January of this year we suffered a grievous loss by the tragic death of our colleague Laurance Ramsbottom, killed in a black-out accident at Stroud. He had the work of the Committee very much at heart and we believe he would have endorsed our findings as being directly consistent with the work of the National Council of Social Service, the Rural Industries Bureau and the Rural Community Council movement, to which he had devoted so much

of his life. To our regret in February, 1942, Lord Addison, then Leader of the Opposition in the House of Lords, felt compelled to resign on account of other pressing public duties.

Throughout our work we have felt it essential to take the broadest possible view of our duties. For that reason we examined and heard evidence bearing on the subject matter of our Terms of Reference from as many angles as possible.

We are united in sharing a deep love for our countryside which has been expressed so eloquently by H. G. Wells:—

“ There is no countryside like the English countryside for those who have learned to love it; its firm yet gentle lines of hill and dale, its ordered confusion of features, its deer parks and downland, its castles and stately houses, its hamlets and old churches, its farms and ricks and great barns and ancient trees, its pools and ponds and shining threads of rivers, its flower-starred hedgerows, its orchards and woodland patches, its village greens and kindly inns. Other countrysides have their pleasant aspects, but none such variety, none that shine so steadfastly throughout the year . . . None change scene and character in three miles of walking, nor have so mellow a sunlight nor so diversified a cloudland nor confess the perpetual refreshment of the strong soft winds that blow from off the sea, as our mother England does.”

It is that countryside which we hope our children and our children's children will enjoy and which it is our duty to preserve for them, and which we regard as included in the phrase “ the preservation of rural amenities ”.

But we do not want a countryside which behind a smiling face hides much human poverty and misery: and it is for that reason we have given close study to the material needs of the rural population in considering “ the well-being of rural communities ”. We have become convinced, if we were not before, that there is an innate love of nature deeply implanted in the heart of man and that the “ drift from the land ” has been occasioned in large measure by economic inequalities between town and country rather than by any deep love of supposed urban joys. We are unable to subscribe in any way to the view that the countryman is inferior to the townsman. Indeed, our views have been beautifully stated by G. M. Trevelyan:—

“ Without vision the people perish, and without natural beauty the English people will perish in the spiritual sense. In old days the English lived in the midst of Nature, subject to its influence at every hour. Thus inspired, our ancestors produced their great creations in religion, in song, and in the arts and crafts—common products of a whole people spiritually alive. To-day most of us are banished to the cities, not without deleterious effects on imagination, inspiration and creative power. But some still live in the country, and some still come out on holidays to the country and drink in with the zest of a thirsty man the delights of natural beauty, and return to the town re-invigorated in soul.”

We have tried to avoid the temptation of looking back to “ the good old days ”—bad though they were, they seem attractive in retrospect. It is true that the physical factors—the distribution of mountain and plain, hill and valley, rainfall and sunshine, spring and autumn—exercise their influence at the present day just as they did in the past and we have endeavoured to

evaluate and assess the significance of these permanent factors. On the other hand, economic factors may produce effects very different to-day from even a century ago, and we have accordingly paid close attention to the trend of developments, especially those consequent upon technical progress. In our recommendations we have tried to look forward—as indeed our Terms of Reference instruct us to do—and to visualize many changes, some trivial, some very far reaching.

Much that we propose requires good will rather than money: and we do not consider financial arrangements to be an insuperable difficulty in any of our recommendations. Indeed we regard all our proposals as essentially and immediately practical and practicable: we have ventured to demonstrate this by suggesting the main lines of government machinery by which, we believe, they could be carried out.

We have been made fully aware of one point of view—that British agriculture, however vital to the nation in time of war, cannot be maintained in the same position in time of peace. But the Government, representative of all the major parties, has declared for the continuing support of agriculture and the phrase in our Terms of Reference “consistently with the maintenance of agriculture” seems to us free from ambiguity. It could not have meant that a *decadent* agriculture was to be maintained; that would have meant sending the Committee on a fool’s errand. We understand that direction to mean that the conditions to be imposed on constructional development in the countryside must be such as will be consistent with the maintenance of a *prosperous* and *progressive* agriculture. We are mindful, too, that the pre-war prevalence of malnutritional diseases must never again be allowed to recur.

Our Terms of Reference presuppose that industry will, to an unknown and perhaps unforeseeable extent, want to come into the countryside and hence to use both for its immediate needs and for its attendant housing land which is at present agricultural. This was the expectation of the Royal Commission, and an examination of the changes in population distribution between 1931 and 1938 (of which we reproduce a map, specially prepared for our Report) leaves no doubt that this is the case. In every one of our great industrial cities of the central belt there is a *decrease* of population in the centre, where commercial buildings replace dwelling houses, and a huge *increase* in the surrounding fringes, where country is replaced by suburb or town. The continuance of this process we believe to have been but temporarily arrested by the war, and we would call attention to the extreme urgency of legislative action to give effect to our recommendations. We are convinced that otherwise the old unregulated sprawl of town into country with all its attendant evils will recommence immediately men and materials are released for the work of physical reconstruction.

It is our firm belief that a vital incentive to the war effort is the presentation of a clear picture of a better world which lies ahead and which, if plans are drawn up and the essential preparations made in advance, can be achieved after this struggle is over. To delay planning and the legislation to carry the plans into effect until the time for action is upon us—the end of the war—we believe to be a fatal error.

PART I. THE PRESENT POSITION.

CHAPTER I.

The Land.

Importance of land—Heavy population density in England and Wales—Urbanisation of country—Distribution of Land-uses.

1. Land is one of the prime essentials of human subsistence. From the soil and from under the soil come practically all the materials on which mankind depends. The land is the meeting ground for all schemes of physical reconstruction or development; they all have one thing in common—a need for a greater or a lesser portion of the national estate. Apart from minor extensions which reclamation may make possible, the extent of land available in this island country is, to all intents and purposes, fixed and inextensible.

2. The proper and profitable use of its land, measured not merely in terms of individual man's immediate need but rather in terms of man's collective need both present and future, is therefore of basic importance to every nation. It is particularly so where the population is large in relation to the amount of land available to support that population.

3. This condition of a large population in relation to land area exists markedly in England and Wales, as the following table for 1939 shows:—

TABLE I.

Country.	Area in sq. miles.	Population.	Population per sq. mile.
England and Wales	58,340	41,031,000	703
Belgium	11,750	8,250,000	702
Holland... ..	13,514	8,560,000	633
Germany	226,435	78,526,000	347
Italy	130,714	45,056,000	345
France	212,895	42,000,000	197
U.S.A.	3,026,789	131,669,275	43

Further, in 1939 the figures for England alone were:—

England	50,330	38,554,000	766
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which shows a still more striking density, and one considerably in excess even of that of Belgium, which is often quoted as the world's most densely populated national area.

4. Population is never, of course, spread evenly over the surface of any country. Increasing "urbanisation" or concentration in towns has been one of the most outstanding characteristics of the last two centuries. In this regard also, the position in Britain is remarkable: more than one-third of the population of England and Wales lives in the six largest city-groups or "conurbations" of Greater London, Birmingham, Manchester, Liverpool, Leeds-Bradford and Tyneside, and over half lives in or near the 14 chief urban centres. The census returns of 1931 showed that over 80 per cent. of the population lived in areas classified as "urban" for local government purposes, and even this high figure needs to be increased in view of the fact that there are many small towns which are situated in districts that are classified as "rural". We are the most urban nation in the world.

5. But while the density of the population over England and Wales as a whole is higher than that in other countries, it does not follow that it is so in the rural parts. The density of population in the countryside* of England and Wales is certainly less than that in the countrysides of Holland or Belgium, for example. 'It is difficult to arrive at exact figures in this connection, but it is possible to get approximate ones. The population of the "rural district" areas,† in 1938, was about 7,200,000. Defining any compact grouping of over 1,500 people as a town, and making allowance for the small towns mentioned above as existing in the "rural districts", the total population living outside towns is probably somewhere about 6,000,000. A rough estimate can be made of the population living in the open countryside in small loosely-knit hamlets, in single-standing farmhouses and isolated cottages by basing the calculation upon the number of farmers and farm workers. In 1938 this was probably just under a million, including 300,000 for farmers and farmers' relatives (the latter figure being based on the 1931 Census returns). Allowing an average of two dependents to each of these workers (even this is probably a generous allowance since the figure includes unmarried youths and women), it gives a total of something like 3,000,000. Of these farmers and farm-workers, a not inconsiderable number live in villages. Hence it is unlikely that the population of the open countryside, living outside villages, exceeds 2 or 2½ million, and the population in villages is probably somewhere about 3½ to 4 million.

6. It does not necessarily follow that either average population density, or degree of urbanisation, bears any direct relation to the actual area of land devoted to urban purposes. The amount of land occupied by towns depends on the traditional conditions of living in different countries. English towns are different from most continental towns in this respect. They are more loosely knit: the tradition of living in family houses rather than in flats means that they spread more widely and occupy greater areas, though reliable comparative statistics do not exist. The Ministry of Agriculture and Fisheries has estimated that in 1937 some 4,162,000 acres of land in England and Wales were occupied by towns, villages, houses and buildings of all kinds, and by roads, railways, canals, docks, harbours, aerodromes, industrial waste areas, etc. That area had increased by 438,000 acres, from 3,724,000 acres, in the 12 years between 1925 and 1937: and since 1937 a great deal more land has been diverted from agriculture for use in connection with various defence works,

7. In 1937, therefore, the 41 million people who lived in England and Wales occupied some 4,162,000 acres with the various structures associated with their homes and work—including buildings, roads, railways, sewerage works, cemeteries and industrial waste heaps (but not playing fields, commons, and other open areas which, while not used primarily for agriculture, still retained a potential agricultural value). In other words, there were 10 people per "developed" acre.

8. Expressed briefly, the uses to which the 58,340 square miles or 37,133,000 acres of land in England and Wales were being put in 1937 were as follows:—some 82.1 per cent. of the total area was in agricultural production (including rough grazings); 1.1 per cent. was open land of various kinds not being used for agriculture, but of potential agricultural value; 5.5 per cent. was woodland; and the remaining 11.3 per cent. was covered by buildings, roads and various other forms of constructional development, or was otherwise unaccounted for in agricultural returns.

* Throughout this report we use the term "countryside" or, alternatively, "country areas" to include rural Britain with the smaller market-towns and villages: the term "open countryside" to exclude these nucleated settlements.

† Rural Districts as defined for local government purposes.

CHAPTER II.

The Countryside.

I. *The Pattern of the Countryside.*

Distribution of Town and Country—Pattern of Countryside—Influence of Agriculture—Qualities of Agricultural Land—Types of Farming—Factors determining Farming Systems.

9. The figures given at the end of the last chapter mean that for every acre of "developed" land—buildings, streets and roads—in England and Wales there are some eight acres of fields, woodlands, and other "open" land. Yet when many people think of this country it is of the big cities that they think first. England is now primarily a manufacturing and commercial country. The majority of the population lives in towns; it is only natural that they should regard the four million odd acres of urban development as the real England and Wales and the other 33 million acres of countryside as a pleasant though unimportant adjunct whose main purpose is to provide recreation and holiday facilities for the townsman. Yet agriculture, considered purely as an industry, is not only the dominant industry of eight-ninths of the country's area but also provides work directly for nearly a million people, and indirectly for many more in the industries catering for its needs*.

10. This conception of England and Wales as a predominantly manufacturing country is comparatively recent. A century or a century and a half ago England and Wales were mainly rural and the most populous counties were those most favoured agriculturally. The relative position of agriculture has steadily declined, but it is important to realise that the pattern of the countryside as we know it to-day is largely the work of agriculturalists during the last few centuries.

11. Our countryside is like a multicoloured chequer board. Its chief characteristic is its attractive patchwork appearance, with an infinite variety of small, odd-shaped fields of brown ploughland or green pasture bounded by twisting hedges, narrow winding lanes, small woodlands and copses and isolated trees and hedgerow timber; quiet streams and placid rivers: the whole giving place in remoter parts to open moorland or rolling downs. Most of the farmhouses and buildings are isolated; small groups consisting of a farmhouse with its buildings, and perhaps a cottage or two, sometimes huddled under the lee of a hill, sometimes clustered in the shelter of a small wood, are scattered over the landscape, often at some distance from the nearest village. The villages themselves with their churches, their inns, their cottages and probably a garage and a petrol pump, perhaps grouped round a green, perhaps straggling along a main road, are dotted over the countryside in large numbers. At rarer intervals are the market towns with their streets—busy at least on market days—their shops, their cinemas and their small industries—with perhaps an abbey or a cathedral in its close, or else a barracks bringing with it the status of a garrison town. Diverse in plan and character these towns all serve the same purpose, forming the main commercial and social centres for the surrounding countryside. In addition, widely scattered but particularly near villages and towns and on the coast,

* According to the official statistics of the Ministry of Agriculture and Fisheries the total value of agricultural and horticultural produce sold off the farms was £224,590,000 in 1937-38. In 1935-36 the corresponding figure was £205,900,000 which may be compared with the official figure of £165,580,000 as the value at the mines and quarries of minerals in 1935 in the whole of Britain or with £3,112,830,000, the gross output of industries according to the Census of Production in 1935.

are the country seats of the landed gentry, or the smaller, more modern country dwellings of townspeople—the “desirable country residences” or “week-end bungalows” which either singly or in groups have increasingly tended to spring up in many parts of the countryside over the last two decades.

12. In various parts the pattern changes and the patch-work effect grows broader. In the Eastern counties, for instance, fields are larger and the flatter landscape is less broken by hedges and trees. Again, in the North, the moors and fells sweep on with scarcely a break, an attractive if sometimes desolate country mainly populated by sheep from the farms in the dales below; or in North Wales, where the mountains stretch for miles in bleak grandeur. But even in such parts, the patch-work effect continues in the dales and valleys where the farms are to be found, and is extended on to the mountains, moors and fells by rough stone walls which partition the land and prevent the sheep from straying. In other parts, such as the Chilterns, Hampshire and Devonshire, the landscape is broken up by numbers of small woodlands, some merely ornamental or protective, others grown for economic ends.

13. The pattern of an inhabited countryside is brought about in two ways. The age-long processes of geology have made for man the hills, valleys and plains which he inherits to-day; but he has done much by his agriculture to increase, indeed to create, the beauty of that heritage. While man's activities are limited by the geographical configuration of the landscape; while he cannot mould and shape it at will; he can, and does, adapt it to suit his purpose. Such adaptations are primarily the result of man's economic needs, but they may also arise from less utilitarian causes—his love of beauty for its own sake and his desire to create beauty, as in the case of many English country parks.

14. The landscape of England and Wales is a striking example of the interdependence between the satisfaction of man's material wants and the creation of beauty. The pattern and the beauty of the countryside as we know them to-day are largely the work of man during the past few centuries. Its present appearance is not by any means entirely the work of nature and it is not enduring, for nature is dynamic, never static. If land were left uncultivated, if downs and mountains were not grazed by cattle or sheep, the countryside would gradually but inevitably return to its former natural condition of forest in the valleys and on the lower slopes, and a scrub of brambles, thorn bushes and bracken on the higher levels—unless, of course, many thousands of men instead of many thousands of animals were employed to keep nature in check by cutting bracken, uprooting bushes, and keeping down scrub and undergrowth. Experience has shown how quickly land can revert to an unkempt, wild and ragged condition, even where it is only neglected and not wholly abandoned. The beauty and pattern of the countryside are the direct result of the cultivation of the soil and there is no antagonism between use and beauty.

15. We are very fortunate in our land both in its scenic beauty and its agricultural value. All the evidence shows that the best agricultural land in England and Wales rivals any other in the world. On the other hand the quality of the land varies very considerably from, for instance, rich arable stretches in the Fens, or fertile grazing pastures in the Midlands, to poor light lands such as the heaths of the New Forest, or the mountain moorlands of the west. No complete soil survey of the country has yet been carried out, but an attempt has been made by the Land Utilisation Survey to arrive at a general classification of land according to its actual and potential productivity and its inherent fertility. This classification, which is based on present and past land utilisation and such other evidence in the form of soil and

vegetation surveys as may be in some areas available, as well as on local knowledge, divides the land into ten principal types, from 1, the finest farm land suitable for intensive cultivation, to 10, land agriculturally almost useless such as shingle spits and rock outcrops*. The first four categories, which comprise the good agricultural lands, both arable and grass, are roughly estimated to cover 16,579,500 acres or 44.2 per cent. of the land surface of England and Wales; the next two categories are the lands of moderate quality and cover about 12,886,500 acres or 34.2 per cent. of the land surface; while the last four categories are the poor quality land, mostly mountain moorland, lowland heath, ill-drained very heavy land, rough marsh pasture and saltings, and cover 7,423,000 acres or 19.8 per cent. of the land surface. The remaining 1.8 per cent. of land is occupied by the chief towns. Smaller towns, villages, roads, etc., are included in the acreages of the type of land they occupy†.

16. Such a classification presents a useful broad picture, but only a broad picture. One of the characteristics of our country is that wide variations in soil and quality of land may occur in quite small areas. Even in the most fertile stretches, pockets of poor land quite often occur, and in the more mixed districts striking variations may occur from field to field. Good and bad land often lie very close together.

17. As a result particularly of the diversity in the types and quality of land and of marked climatic differences between the drier east and the wetter west, the cooler north and the warmer south, there is great variation not only in land use but also in types of farming to be found throughout the country. In 1941, a Types of Farming Map prepared by the Ministry of Agriculture was published by the Land Utilisation Survey,‡ and, on a basis of land use and dominant enterprises, 17 main types of farming were distinguished in England and Wales. The first five of these, based mainly on permanent pasture, comprised grass dairying, as in Cheshire; the fattening of cattle, sheep and lambs as on the famous grazing pastures of Leicestershire and Northamptonshire; and the rearing and grazing of sheep in the hill districts of the lower Pennines, Wales and the Lake District.

18. The next six types are mixed farming types based on a variety of production and on farms with both arable and permanent grass. Examples of these are to be found in the farms on the Cumberland coast, or in parts of the Chilterns or West Sussex where production is based on the dairy but considerable amounts of fodder crops or cash§ crops, such as wheat and vegetables, are grown; or in the Eden Valley and parts of Herefordshire where rearing of livestock forms the main business but where, for example, fruit, hops or barley are also grown; or, again, in the chalk belt of southern central England where in the large farms of Wiltshire, Hampshire, Berkshire and Dorset corn, sheep and dairying are the main forms of production; or, yet again, on the clay soils of Lincolnshire, Huntingdonshire and Bedfordshire where wheat and cattle are the main enterprises.

19. The final group of six types comprises the arable lands where crops and market garden produce are the main forms of production. In some of these types the farming is mixed although mainly based on arable crops; cattle, sheep, lambs and pigs are fattened while cash crops such as sugar beet and

* Land Utilisation Survey Report: "Fertility, Productivity and Classification of Land in England and Wales".

† This means that there is some disparity between these figures (which include also the Isle of Man) and those given in paragraphs 6, 7 and 8, which relate to all land occupied by buildings and roads or otherwise unaccounted for in agricultural returns in England and Wales.

‡ A Types of Farming Map of England and Wales: Explanatory Bulletin.

§ Cash crops are crops sold directly off the farm, as opposed to those used on the farm.

Tentative Land Classification Map of England and Wales

Prepared by
the Land Utilisation Survey of Britain

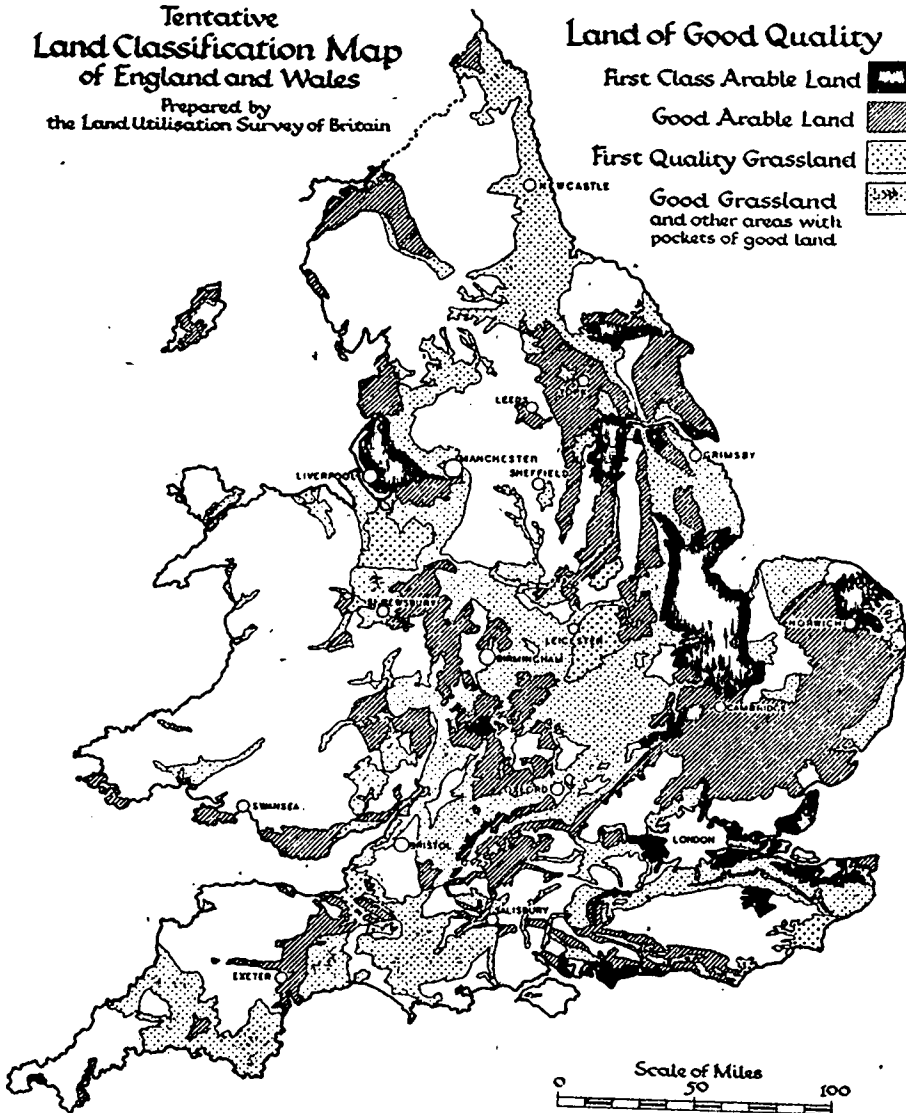
Land of Good Quality

First Class Arable Land

Good Arable Land

First Quality Grassland

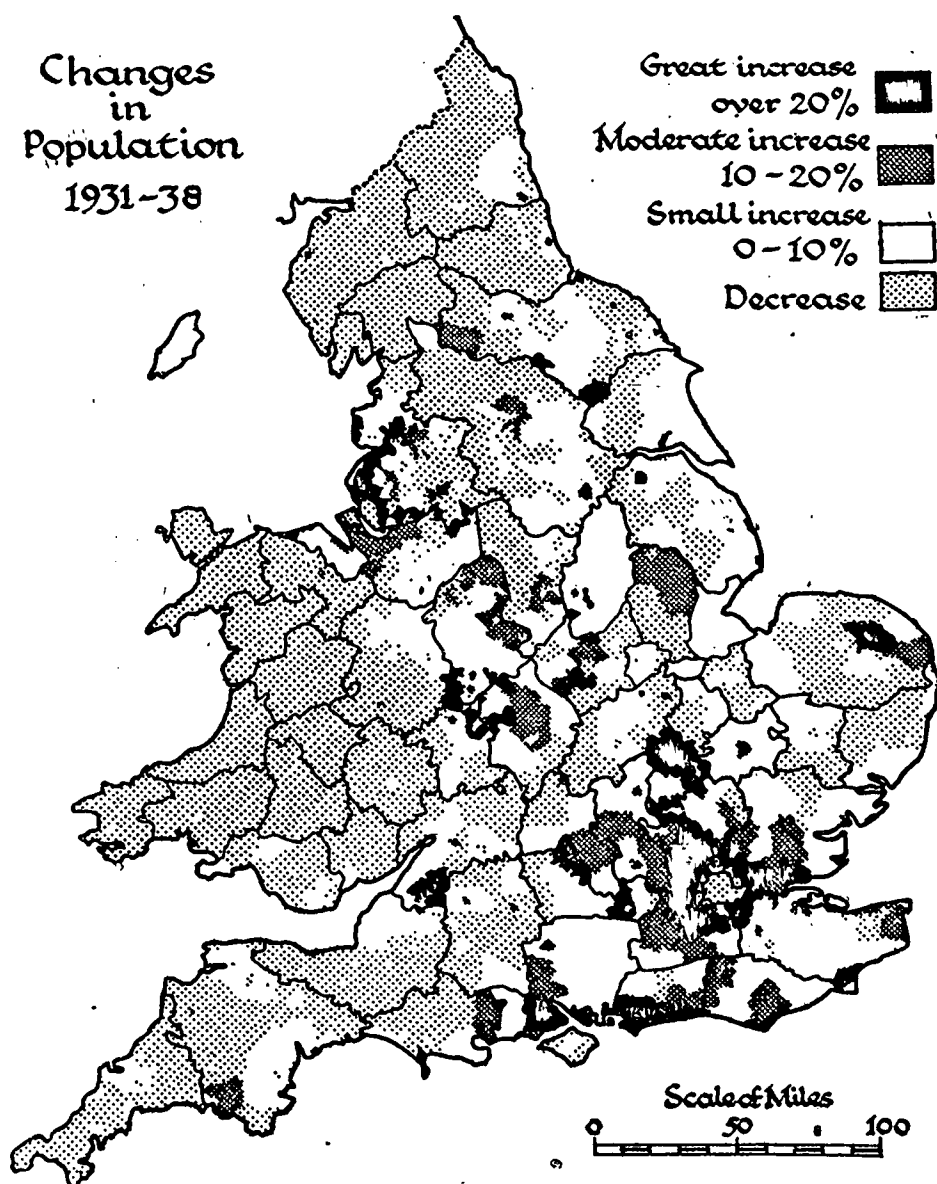
Good Grassland
and other areas with
pockets of good land



This map shows only the areas of *good* agricultural land. The broad classification of all land used by the Land Utilisation Survey of Britain is as follows (only the first four are shown on the map) :—

- | | |
|---|--|
| <p>I.
Good
Quality
Land.</p> | <p>1. (A) First Class Land, suitable for intensive cultivation, <i>e.g.</i>, as market gardens.
2. (A) Good General Purpose Farm Land, under arable cultivation with a wide range of crops in eastern England, ley farming in the wetter west.
3. (G) First Class Land, similar to 1 but for various reasons usually under grass.
4. (G) Good Farm Land but with heavier soils and hence formerly under grass.</p> |
| <p>II.
Medium
Quality
Land.</p> | <p>5. (AG) Downland and similar areas of thin light soil.
6. (AG) Medium Quality General Purpose Farm Land, usually very varied.</p> |
| <p>III.
Poor
Quality
Land.</p> | <p>7. (G) Poor Quality Heavy Land.
8. (H) Poor Quality Mountain Land, Moorland and rough pasture.
9. (H) Poor Quality Light Land, Heath, etc.
10. Poorest Land, shingle, sand, saltmarsh, etc.</p> |
- Symbols refer to the normal use in 1939: A=arable; G=grass; H=heath land, etc.

Changes in Population 1931-38

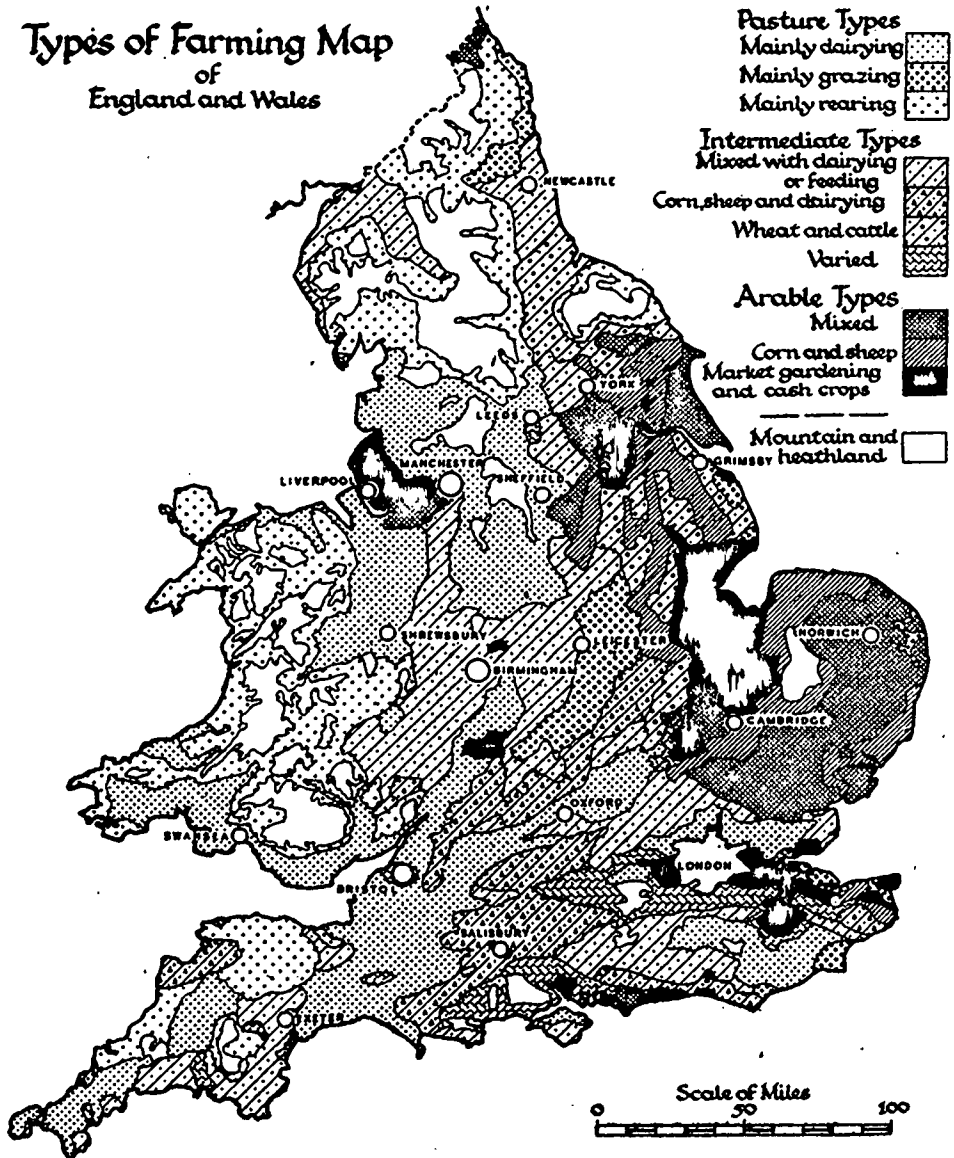


This map demonstrates very clearly the depopulation in the years preceding the present war of nearly all parts of rural England and Wales. With a few exceptions, all the great increases were in the broad central belt from South Lancashire to London and the South-east—especially in the peripheral areas of the great population centres of Liverpool, Manchester, Birmingham and Greater London. In each case, however, the *centres* of these conurbations show relative depopulation as the people have moved outwards.

When this map is compared with the one opposite it will be seen that much of the population expansion has been on to the best or at least good agricultural land (see also graphs on page 24.)

(Map specially prepared by the Planning Department of the Ministry of Works and Planning.)

Types of Farming Map of England and Wales



This map is an abridged version of the Types of Farming Map of England and Wales, prepared by the Ministry of Agriculture and Fisheries in 1939 and published by the Land Utilisation Survey of Britain.

It does not take into account changes due to war conditions.

The five types based on permanent pasture (paragraph 17) have been shown as three main classes (pasture types); the six mixed farming types as four (intermediate types); and the six types based on arable farming as three (arable types).

The map demonstrates clearly the concentration of arable farming in the drier east and grassland farming in the midlands and west.

wheat are extensively grown. Many such farms are to be found in the Eastern Counties. Other examples are the "corn and sheep" or "sheep and barley" farms of Norfolk, of the Chalk Wolds of East Yorkshire, and of the sandy Sherwood Forest area of Nottinghamshire. In the Fens in Lincolnshire, Norfolk, and the Isle of Ely, or in the Lancashire plain around Liverpool, the farms are more wholly arable, based on the production of crops giving a cash return such as wheat, potatoes, sugar beet and vegetables. The market garden holdings devoted mainly to the growing of vegetables and fruit are chiefly to be found in the areas of really good soil such as the Vale of Evesham, the Wisbech area of the Isle of Ely, the areas east and west of London, or the glasshouse districts of the Lea Valley.

20. Outside the areas where these 17 main types of farming are found the map also indicates (a) land of small agricultural value, (b) marshes, and (c) unclassified areas. The first includes mountain moorland and fell areas in the north and west where there are some hill sheep, as well as heath land such as Bagshot and parts of the Forest of Dean, where the land is little used agriculturally. On some of the marshes the grazing may be highly important.

21. Geographical, economic and historical factors have all played their part in determining the traditional systems of English and Welsh farming. Of geographical or natural factors such as the form of the ground, soil and climate, a very important one is rainfall. This is mainly the reason why most grass farms are situated in the wetter and more humid climate of the west and north; arable farms in the drier east; and intermediate or mixed types in the central belt. Though there is thus a marked contrast between types of farming in one part of the country and another, it must be emphasized that they are closely inter-related. Thus the dairy farmers of the plains draw their young stock from the breeders in the hill districts and the prosperity of the different types of farming is closely bound up with the prosperity of the whole of agriculture.

22. Economic factors have also had an important influence on the form of production. More favourable prices at various times for certain commodities have normally caused a change-over towards the production of these crops; while the attraction of nearby markets can be seen in the grouping of dairy and market garden holdings round the fringes of towns.

23. To some extent, too, historical factors such as the accident of land ownership may underlie the use to which land is put. For instance, the manors of the feudal days were in many cases the origin of the large country estates and mansions of the landed aristocracy which have been handed down from generation to generation and which still exist in many parts of the country to-day. The big country houses with their parks, their ornamental woodlands, and artificial lakes are familiar features of the countryside. Ownership of the land has there resulted in its use not only for certain types of production but also with aesthetic values in mind, though such was the appreciation of the old landowner for the value of land that most frequently parks tend to be located on the poorest land in any given area.

2. Origins of the Landscape Pattern.

Traditional Type of Mixed Farming—Its Influence on Size of Fields and Farms—Consequent Scattered Position of Farm Houses and Buildings—Contrast with Continental Countries—English Villages—Market Towns.

24. Every civilised landscape must, to some degree, be an expression of the social structure and habits of the people who live in it. The English and Welsh countryside is an expression, in its most characteristic

parts, of the fact that it is based on a farming system of small to medium sized holdings. The landscape is a yeoman's and not a peasant's landscape.

25. In feudal days, and so long as the system of cultivation was that of the "Open Field", the landscape of England and Wales presented a very different picture from that of the present day. A great part of the country was still covered by forests, and cultivated land was, for the most part, close to the settlements and villages. The manorial farming system based on strip cultivation had no place for hedges or fences. Further, as more and more land was brought into cultivation and wood was used for charcoal or for shipbuilding, the forests were cleared, and the landscape tended to become denuded of trees.

26. The break-up of the manorial system gradually led to the "Inclosure Movement" which was spread over two or three hundred years from the sixteenth to the early nineteenth century. This movement was primarily economic and, in its later stages, resulted from the need for improvement in farming methods. It was assisted, however, by a strong aesthetic impulse. Many of those who enclosed lands in the eighteenth and nineteenth centuries were greatly influenced by a desire to create beauty in the landscape. The park-like effect of much of the countryside to-day is not wholly fortuitous; there was, in most of the activities of the eighteenth and early nineteenth century Landscape Improvers, a conscious and creative urge to bring beauty as well as efficiency into the countryside. The stately parks of the larger landowners are a living testimony to this.

27. The Inclosure Movement thus profoundly altered the landscape pattern. Slowly it brought about a transition also in the social structure of rural England and Wales from the feudal peasant system to that of the yeoman owner and tenant farmer. Their holdings were based on new methods of farming which later became gradually adopted over most of the country.

28. Before the growth of international trade in fertilisers and animal feeding-stuffs in the nineteenth and twentieth centuries, these farming systems were based mainly on mixed farming, that is to say a balance of livestock and crops on the farm. The specialised farm, essentially dependent on imported fertilisers and feeding-stuffs, did not then exist and most farmers grew the fodder crops they needed for their livestock and used the animals' dung as manure.

29. Small or medium-sized fields were the general rule; for large fields were unsuitable for this type of mixed farming. Hedges with scattered trees were grown to divide the fields, give shelter to the animals, control their grazing, and act as windbreaks for the soil and crops. Ditches were dug for boundaries and for the efficient drainage of the land. Small copses and woodlands, so typical of many parts of the landscape, were either left or were planted for agricultural purposes, providing shelter for stock and a supply of fencing posts or material for hurdles and baskets. It can be seen, therefore, that the small field pattern of most of the countryside grew out of the practical necessities of the farmer's job. Before the present century there existed little of the mechanical farming equipment—even horse-drawn—with its insistent demand for wider expanses of open land for the sake of more economical working and the consequent movement for larger fields.

30. In the same way the prevalence of this type of farming largely explains the small size of the majority of farms of this country. In 1938 there were 365,972 holdings in England and Wales of which 288,045 or 79 per cent. of the total number were under 100 acres. Of this number 61,685 were between 50 and 100 acres, leaving 226,360 or 62 per cent. under 50 acres—a position which has been practically static over the last 70 years. Mixed farming did not call for a large unit. The fields were wanted within reasonable access of

the farmhouse and buildings so that the livestock could be properly cared for and could be driven back easily at night. Transport was difficult and it was a disadvantage to be forced to cart crops or manure for long distances often over farm tracks deep in mud and water.

31. The very small holding of only a few acres was also usually unsuitable for mixed farming. It did not contain sufficient land for a balanced production of crops and livestock and it was difficult for such holdings to be self sufficient as regards feeding-stuffs. The considerable numbers of agricultural holdings of only a few acres in the country to-day, include some under intensive cultivation as market gardens, some producer-retailer milk holdings on the outskirts of towns; some subsistence holdings, remote and primitive, where the family, unassisted by hired labour, manages to eke out a bare existence and where, indeed, the owner often has to supplement his meagre cash earnings by working for wages on a neighbouring farm; and finally many smallholdings run as sidelines by retired men with a taste for country life and other sources of income.

32. This structure of English and Welsh farming has determined the disposition of the buildings necessary for agriculture, as well as the pattern of its fields and the size of its holdings, its roads and its farm tracks. Mixed farming on a medium-sized unit meant that on each holding a farmhouse—its site often determined by availability of water—had to be provided for the farmer and his family, as well as buildings for animals and storage of crops and implements and often cottages for workers. So it is that the landscape has become dotted with the familiar clusters of the farmhouse with its buildings standing by themselves, often well away from the nearest village. Although workers lived in the village if it was sufficiently close, they were often obliged to live away from the village so as to be nearer to their work, more particularly in cases where their duties involved looking after livestock. The farmer found it necessary to provide the cottages and it was in this way that the " tied " cottage* system arose.

33. Whilst some parts of rural England and Wales are characterised by dispersed settlements or scattered farmhouses, in other parts, especially where the community was organised under the feudal or manorial systems, nucleated settlements or villages are the rule. The people cultivated the nearby land for their own needs and those of the Lord of the Manor. They were small, self-sufficient communities having little intercourse with the outside world.

34. The sites of these villages were originally determined by some physical factor of local importance. Many villages were situated where a spring or a stream afforded the essential water supply. Others, in lowland areas, were located on small knolls away from the danger of floods. Others again were associated with fords or bridges, or the crossing places of lines of communication, or were situated in valleys which offered shelter and fertile soils in otherwise exposed and inhospitable areas. In many cases the possibilities of defence, though not for centuries past a matter of importance, constituted originally one of the principal factors determining both location and the form of village plan adopted.

35. Each village had a plan or form related to its function. Since these functions varied widely, since the original siting factor often became unimportant and later additions to an old settlement were consequently governed by other conditions, and since nearly all villages have grown naturally and

* A " tied " cottage is a cottage which a farm worker occupies by virtue of his employment on the farm, usually at a nominal or low rent, and which he must vacate on leaving that employment.

for the most part slowly, there is to-day no set pattern to which village plans generally conform—they vary greatly in both shape and size.

36. The commonest type is what may be described as the "roadside" village. This consists merely of a string of houses on either side of a road, the road perhaps widening within the village to include a strip of green or an additional paved area where a market stall or two might occasionally be erected or which could be used for other public or semi-public purposes. This kind of village is in some respects the prototype of the form of building which is nowadays described as "ribbon development." But it is so with a marked difference. The old roadside village was necessarily limited in extent, because the country about it could only support a certain number of people and, therefore, a certain size of village. There was necessarily a considerable interval between one village and the next. By contrast, the occupants of the houses in a modern ribbon development are not as a rule directly dependent on the neighbouring land for their living, and there is no natural limiting agency to check the ribbon's growth.

37. The other main type is what may be called the "enclosed" village. Here the buildings were erected round, and generally more or less enclose, some area that was bigger than the broadening out of the roadway which characterises some roadside villages. This area might be a green or it might—in frequently in Britain—be paved, and it was varied, often irregular in shape. No doubt the defence motive had a good deal to do with the development in this form of many villages in the north of England, for cattle could be herded in the enclosed space during times of border raiding. But whatever the original reason may have been, this enclosed pattern, this grouping of buildings about a green, is a most attractive feature which gives cohesion and character to the villages that exhibit it.

38. Though most of our villages have grown naturally and over a long period of time, there are some which were deliberately planned and built as a single undertaking. Most of these belong to the eighteenth or early nineteenth centuries, when some landowners were actuated by a desire to give their tenants good houses and to complete their schemes of landscape architecture by including the village dwellings. Sometimes a whole village was moved from too close proximity to the Hall and was rebuilt about the entrance to the park gates, or sometimes it was a case of a new village being built in connection with a land-improvement or reclamation scheme, as happened at Tremadoc in North Wales. But whatever the reason for their foundation these planned eighteenth and early nineteenth century villages were generally of a formal, unified kind, and though in these respects they may be very different from the normal natural-growing village they sit as happily and as attractively in the countryside as do those others.

39. With the development of manufacturing industry and transport the economic and social importance of the villages may have declined, but they are still an essential part of the countryside, providing a local centre and catering for many needs of agriculture. Their tradesmen such as the butcher, the grocer, and the innkeeper, and their craftsmen such as the blacksmith, the saddler and the jobbing builder, serve the farmers and cottagers who are scattered about the surrounding countryside: their churches, chapels and schools provide for their spiritual and some of their other non-material needs.

40. As scattered farms and cottages are grouped round villages, so villages are grouped round market towns which form the main commercial and to some extent the cultural centres of a district. When the rural population began to farm for sale rather than for home consumption, they required a

centre at which to dispose of their produce. Such a centre gradually grew as the market developed, and all those ancillary trades and activities attendant upon a market sprang up in and around the centre. Moreover, as rural communities ceased to be content with what they grew or made themselves, they needed to buy from the outside world. In this way the market town became the centre not only for the countryman to dispose of his produce, but also for him to buy his requirements. It became the clearing-house of the countryside.

41. In the middle ages market towns were closely spaced in relation to each other, for wheeled traffic was often impossible on the muddy tracks which served the countryside and the market had to be within walking distance of the villages or farms it served. In any case, cattle and sheep had to be driven on foot. In fact, the market town was often enough little more than the largest village in a group of villages. Naturally some developed more than others and became not only market towns but rural industrial centres as well—processing agricultural products (as in milling, brewing, tanning, spinning, weaving and so on) or developing industries related to the countryside (the making of agricultural implements). Many of our important manufacturing towns originated in this way, though the connection between the industry and a once-important local supply of raw material may long since have been lost. With the development of roads and the consequent improvements in communications many of the smaller market towns decayed, many ceased to hold markets, whereas those most favourably situated continued to expand and some have developed to great manufacturing cities. The metal industries of Birmingham may, for example, be traced back to the early work of smiths who made horseshoes or ploughshares for local farmers. The growth of many towns has been aided by a famous church, abbey or cathedral or by a school and later a university. But if the site is unsuitably chosen, not even a cathedral will cause the growth of a market town as the village of St. Davids (Pembrokeshire) bears witness.

42. Country towns as well as the villages received a considerable refurbishing in the eighteenth century, and Georgian and Regency buildings added charm and urbanity to the sturdiness of the earlier buildings among which they were placed. The main streets of most country towns, with their pleasant houses and shops, their town halls, assembly rooms and other public buildings, with their occasional glimpses of the older parish church or cathedral seen down a still remaining mediaeval street, had great character and charm. But if there was picturesqueness there was often anything but charm in the narrow crowded gunnels and wynds which ran off the main streets and in which the poorer classes of the population lived. The slums of the country towns were probably at least as bad as those of the bigger towns produced by the industrial revolution, and seemed worse because of their contrast with the open countryside which lay so near.

43. With the greater development of transport, the importance of the smaller market towns, like that of the village, has tended to decline. The farmer prefers the bigger market or sends produce direct to the cities; he and his wife find the advantages of the wider range of shopping facilities in larger centres. They may purchase through the mail-order system, or from commercial travellers of big firms. Nevertheless the market town provides many of the more varied services the countryman needs: shops; markets; professional services of doctors, solicitors and bankers; amusements such as cinemas and dance halls; perhaps higher education. The market town still plays an important part in the countryside.

3. *The Changes During Last Few Decades.*

Changes in Agriculture since Nineteenth Century—Increased Imports of Cheap Food and Feeding-stuffs—Decline in Arable Acreage—Break-up of Estates—Impoverishment of Farmers—Effect on Farming—Government Assistance to Agriculture—Neglected Appearance of Many Parts of Countryside.

44. This then is the traditional rural pattern of England and Wales and how it evolved. A countryside of varied yet homogeneous agriculture, of changing yet unified scenic aspect; a wooded and park-like mosaic of small fields, of scattered farmsteads and cottages, of frequent and attractive hamlets and villages, of pleasant country towns. It is a countryside which serves as a home as well as a work-place; a countryside which gives inspiration and delight; the heritage of the English-speaking world. But such a landscape cannot remain static; changes are bound to take place which influence to a greater or lesser extent its pattern and appearance.

45. In the last 100 years, considerable changes have taken place in agriculture. If these changes have not made much noticeable difference to the general pattern of the countryside, they have had a marked effect upon its appearance and upon rural life. Although the repeal of the Corn Laws had only a limited direct effect on British agriculture for some years, as production based on the ranch and prairie systems increased on the fertile virgin lands of such countries as the United States, Canada, the Argentine, Australia and New Zealand, so imports of cheap food and, later in the century, of animal feeding-stuffs from abroad gradually brought about changes in British farming. The growth of the population made it increasingly impossible to feed our own people from our own land whilst the development of more rapid and efficient means of transport made it increasingly easy to import the more readily handled or less perishable commodities. Many farmers in this country turned from mixed farming and specialised more in those forms of production which did not have to face competition from abroad—in milk, eggs, vegetables, high quality meat and stock. This change-over was assisted not so much by the imports of human foodstuffs as by the plentiful supplies of cheap imported animal feeding-stuffs, the volume of which reached in the years before 1939 the very large figure of some $7\frac{1}{2}$ to 8 million tons per annum. In consequence, many farmers ceased to grow their own fodder crops and numerous holdings were put down or, worse, allowed to "tumble down" almost entirely to grass; and much of the land was so neglected that it deteriorated to "rough grazing".

46. This change-over to grass farming meant a gradual decline in arable acreage. In 1871, the total amount of agricultural land in England and Wales (excluding rough grazing) was 26,322,000 acres of which 14,946,000 acres were devoted to arable cultivation and 11,376,000 acres to grassland. In 1900, the arable acreage was 12,217,208 acres; in 1910, 11,320,444 acres. This continual downward trend was arrested for a brief period during the War of 1914-18 when this country was forced by unrestricted submarine warfare to rely on its own land to produce a far larger quantity of the nation's food. But with the repeal of the Corn Production Acts* in 1921, the former downward trend was resumed and even accelerated, and the subsequent figures of arable acreage were in 1925, 10,682,053 acres, and in 1938, 8,877,712.

47. It was not only competition from abroad which caused changes. During the years before the War of 1914-18, as well as since, rising taxation and the incidence of death duties seriously reduced the ability of many landowners to make necessary improvements or to maintain their farms in good

* The Corn Production Acts provided for the payment of a subsidy to producers of home grown wheat and oats if the average price fell below certain prescribed minimum prices.

tenantable condition. Many estates became heavily mortgaged. Immediately following the 1914-18 War, landlords took advantage of improved conditions in the land market to sell, and numerous large estates were broken up. To retain their farms many tenants bought them, often at high prices and frequently with borrowed money. This lock-up of capital in the land meant less money for working capital and became for many owner-farmers a source of considerable embarrassment when later the general world depression in agriculture brought low prices. The result was the impoverishment of many farmers. In such cases there was an increasing tendency, born of necessity, to farm for quick cash returns rather than to consider the maintenance of the fertility of the land.

48. To meet low prices farmers endeavoured by one means or another to reduce their costs. Labour has always formed a main-item in agricultural costs and the effect of wage costs was felt even more markedly as a result of fixing county minimum wages for agricultural workers under the Agricultural Wages (Regulation) Act of 1924. It was, therefore, only natural that in seeking to reduce costs one of the first steps that farmers took was to reduce their wages bill by cutting down the number of farm workers employed. This was often done at the cost of neglecting the ordinary maintenance work of the farm, such as cleaning ditches and drains, and trimming and laying hedges. The least productive fields were allowed to go out of production and became derelict. Many farms were turned over to farms of production which required less man-power, as for example from arable to dairy farming. Indeed, the decline in arable farming would doubtless have been far worse had it not been for the advent of the tractor which made possible far more work with far less labour. The introduction of modern mechanical equipment as an aid to farming ushered in a new era and made possible the war-time expansion of production in 1939-42.

49. Attempts to check the decline of agriculture were intensified by the Government after 1931 and various measures were taken to assist farmers. These for the most part took the form of assistance by means of subsidies to particular branches of farming as each in turn became particularly depressed. In this way assistance was given to wheat, oats and barley, milk and milk products, sugar beet, cattle, sheep and pigs. The piecemeal nature of this assistance had in itself an unbalancing effect on farming by encouraging in some cases too great an increase in one crop at the expense of another. Grants were also given to help farmers buy lime and fertilisers and towards the drainage of land. In addition the Government took active steps both by legislation and by other means to stimulate the promotion of marketing schemes which were intended to assist farmers in obtaining remunerative prices as well as to benefit the consumer, and experiments in the reorganisation of food-processing and distribution were also tentatively tried. These steps met with some success but they only succeeded in slowing the decline and not in reversing it.

50. These changes in agricultural conditions were reflected in many parts of the countryside. Less arable land was to be seen in the landscape; the number of derelict fields, rank with coarse matted grass, thistles, weeds and brambles, multiplied; ditches became choked and no longer served as effective drains; hedges became overgrown and straggled over the edges of the fields; gates and fences fell into disrepair; farm roads were left unmade. Signs of decay were to be seen also in many of the buildings. Barns and sheds were not put in order; farmhouses were allowed to deteriorate; agricultural cottages went from bad to worse. Whilst, when seen from afar, it retained the beauty of the old broad pattern, the landscape of 1938 had, in many districts, assumed a neglected and unkempt appearance.

4. *The Drift from the Land.*

Drift of Agricultural Labour to Other Industries—Drift of Other Rural Workers—Causes of Drift—Low Agricultural Wages—Lack of Prospects—Rural Housing Conditions—Tied Cottages—Shortage of Rural Housing—Low Standard of Accommodation—Electricity and Water Supplies in Rural Areas—Decline of Village Social Life—Voluntary Social Work—Lack of Facilities and Services in Rural Areas.

51. Agricultural depression had a further major effect on the countryside. It encouraged the drift of labour from the land. In the years 1921-24 the total number of workers, male and female, engaged in agriculture averaged 816,000, while in 1938 the number had declined by over 25 per cent. to 593,000. The number of regular male workers in the same period fell from 587,000 in 1921-24 to 472,000 in 1938; a drop of nearly 20 per cent.

52. This drift of labour was due to a variety of causes. On the one hand there was the "push" from the farmer in his efforts to reduce his labour costs to a bare minimum, and on the other there was a definite "pull" of other industries offering better wages and working conditions, more attractive living facilities and the greater amenities of town life. The strength of the "pull" varied from time to time and from place to place but its effect became particularly noticeable in the year or so before this war with an increase in the countryside of various non-agricultural activities connected with national defence. The drift was greatest among the younger generation of farm workers for whom there remained few opportunities in the country and to whom the attractions of industry and of town life appealed most, a fact which is shown very vividly by the fall in the numbers of young male workers under 21—a fall of some 75,000 or nearly 44 per cent. between 1921-24 and 1938, as compared with a fall of 103,000 or 19 per cent. in the number of male workers over 21 during the same period. The love of the country and country life is an innate national characteristic and in a large number of cases the "pull" of the towns is economic. The countryside suffered from a grave inferiority of wages and opportunities for advancement and from inadequate housing and services.

53. The depressed condition of agriculture inevitably had repercussions on other rural occupations, with the result that migration of labour was not confined to workers on the land. Thus village craftsmen such as blacksmiths, saddlers, carpenters and wheelwrights also felt the wave of depression. In spite of efforts by such organisations as the Rural Industries Bureau to keep alive and foster village crafts by means of training, advice and organisation, many of the younger men, who in former days would have traditionally followed in their father's footsteps, answered the call of the city or of the factory or obtained contractor's work in the countryside. Even many of those employed in the ancillary occupations of rural life—assistants in village shops, rural road workers and railwaymen—wherever possible "bettered" themselves by getting a job in the town. Even in the County Constabulary a move to a town was looked upon as "promotion". Wives and daughters also followed the example of, or set the example to, their menfolk by going into factories. The result was a growing depopulation of the countryside and a set back to country life.

54. One of the principal causes of this drift of the younger population from country to town was undoubtedly the great disparity between rural and urban wages. There was a wide difference between the average wage of an agricultural worker and that of an unskilled labourer in industry, in spite of the fact that in agriculture even the general worker must be highly skilled. For instance, in 1923 the average agricultural wage ranged from about 25s. to about 32s. for a week of 50 to 54 hours, while the rates for unskilled industrial labourers ranged from about 35s. to over 50s. for a week varying from

about 42 to 48 hours. In June, 1939, the average agricultural wage had risen to a range of about 32s. to 37s. 6d. and the average rates for unskilled labourers in other industries to a range of about 43s. to 60s., in both cases for about the same number of working hours as in 1923. It is, of course, true that some agricultural workers had certain benefits such as low cottage rents and free or low-priced produce of one kind and another from the farm, but even when allowance is made for such perquisites the disparity remained great. This disparity was equally great between the village craftsman and his fellow town worker.

55. The agricultural worker had little prospect of rising in the world. To become a farmer on his own account, the farm-worker needed capital. To accumulate this was almost an impossibility when his wages were barely sufficient for him to live on. A few managed to do so and have succeeded, but they were exceptional men. Nor could he often hope to rise to the position of foreman or manager, as few farms were large enough or sufficiently prosperous to support such posts. The small-holdings schemes started after the 1914-18 War might have provided him with a stepping-stone, but they were mainly designed to settle ex-service men and unemployed industrial workers on the land—in each case settlers with little or no agricultural knowledge or experience. In any case, under the individualistic basis on which they were for the most part run, with little attempt to foster co-operative buying and selling or working, the smallholder had little hope of succeeding. When, later on, some were run on a co-operative basis, the chance of success was greatly improved. There is no doubt, however, that as compared with industry, there were fewer opportunities in agriculture for the worker without capital to gain the advancement which his energy and ability merited.

56. Conditions under which rural workers had to live were another contributory reason for the drift. Housing, in particular, was a serious problem, rural cottages generally being far below the modern standards of housing for the working classes. In spite of the falling numbers of the rural population, there was a growing shortage of housing accommodation in many districts, largely due to cottages being rented by other than farm workers. Over the country generally, many rural workers were living in cottages which should have been condemned as uninhabitable.

57. The wages of agricultural workers were too low for them to pay an economic rent for the right kind of house and in consequence the building of cottages offered no attraction to the speculative builder. Such housing accommodation as had been built specially for agricultural workers had been erected almost entirely by the landowners, including farmers owning their own farms. As a result many workers were living in "tied" cottages or in cottages which, although not "tied" to a farm, belonged to a local estate owner and were held by the worker on an understood condition that he was employed on work connected with the estate.

58. The worker in a "tied" cottage is liable to be evicted at any time he has a dispute with his employer or when, for any reason, the employer decides to replace him by another worker. He does not enjoy protection under the Rent Restrictions Acts as he can be evicted without any alternative accommodation being provided for him. If he loses his job he also loses his home.

59. Another great disadvantage of the "tied" cottage is that, being on or near farm premises, the worker and his family are often isolated from village life. This is a particular hardship on women—and more especially on younger women—who in the majority of cases find such an existence lonely and inconvenient because of the distance from a shopping centre or from a school for the children. As a result, the health of the women and children

as well as the education of the family, which should be paramount, may suffer. There is also the added difficulty of providing isolated cottages with modern conveniences such as electricity, water supply, or a nearby telephone.

60. On the other hand from the farmer's point of view there is a great advantage in the workers—particularly those in charge of livestock—living on the spot. They contend that the health and care of the animals would suffer gravely if the horseman or cowman were not readily available by night as well as by day should necessity arise. Moreover with the long hours that must often be worked in agriculture, it is a great saving whether of working time or of their own brief leisure time if workers live close at hand. In addition, while housing in rural areas remains scarce great difficulties may be caused by cottages not being tied to the job. Workers may leave the land and yet continue to live in their cottages with the result that accommodation is not available for the agricultural workers essential for the working of surrounding farms.

61. Moreover where cottages are not tied to the farm there is a real danger that they may be acquired by town-dwellers for week-ends or holidays. There is no doubt that one contributory cause of the housing shortage for rural workers has lain in the growth of the "week-end" habit. Indeed, many city workers lived permanently in country cottages travelling to and from their work daily. Their houses were often agricultural cottages bought because of their picturesque character and brought up-to-date with all modern conveniences.

62. While the majority of new cottages built for agricultural workers were provided by the landowners and farmers, certain numbers of houses were put up by local authorities. Financial assistance was given by the Government for this purpose under the Housing Acts of 1923, 1924, 1931 and 1938. The number of houses built under the first three Acts was small, possibly because the subsidy was insufficient, and even out of the number built only a proportion are occupied by agricultural workers. The 1938 Act had not been in operation long enough by the outbreak of war to have had any appreciable effect. The housing provided by local authorities did not therefore materially alter the position.

63. Apart from actual shortage of cottages, the general standard of accommodation, equipment and services was—and still is—very low. Thousands of cottages have no piped water supply, no gas or electric light, no third bedroom and often only one living room with no separate cooking and scullery accommodation. For the great majority of rural workers a bathroom is a rare luxury. In many cases, too, the modern country cottages seem to have been planned from an urban standpoint with little or no regard to the special requirements of the country worker. There is often no shed or room for taking off and drying wet clothes; no storage room for stocks of foodstuffs, seeds, etc.; no sheds for garden tools or bicycles. Such conditions undoubtedly drove many of the better type of young rural workers into other occupations. Many a young farm worker wanting to get married has found it impossible to rent a cottage at all, or else if he obtained one, his prospective bride found it difficult to reconcile herself to living in a cottage with inadequate accommodation and no amenities. As the result they either deserted the country for the town, or according to the evidence of the Federation of Women's Institutes, restricted the size of their family to only one child.

64. A good deal was done by some County Councils, in the years before the war, to recondition rural cottages under the Housing (Rural Workers) Acts of 1926 and 1931 and to a limited extent under that of 1938. Reconditioning or even enlarging is however not a solution in every case as many cottages are too derelict for reconstruction. Many

existing cottages are badly sited on damp, unhealthy ground or in remote districts where it has been impracticable to provide either an adequate water supply, effective drainage, or where electricity is out of reach.

65. A great deal had been done in the provision of electricity, gas and water supplies in the rural areas. The electricity supply companies developed their rural areas very considerably in pre-war years but, even so, according to the evidence of the British Electrical Development Association, it was estimated that in 1939 about one-third of all dwellings in rural district areas were not yet electrified. A large proportion of these were farms and agricultural cottages, which owing to their isolated position were the most expensive and difficult to connect. It has been estimated that only about 25,000 to 30,000 agricultural holdings out of a total of 365,972 were served with electricity in 1938. Gas, often preferred for heating and cooking, was mainly restricted to small towns and larger villages owing to the cost of laying mains and supply pipes.

66. Much the same picture is given in the case of rural water supplies. A considerable extension of piped water supplies in rural areas was achieved as a result of the £1,000,000 Government grant made for this purpose under the Rural Water Supply Act of 1934, but in spite of this there was still a grave deficiency. In June, 1939, it was estimated that of the 11,186 parishes in England and Wales 3,432 were entirely without piped water supplies and that at least one million, or one-seventh, of the rural population* were without piped water. Here again it was mostly the agricultural worker or the farmer living in an isolated cottage or farmhouse who had to go without. The position as regards drainage and especially sewerage was not even as good as in the case of water supplies. At least 5,186 parishes were entirely without sewerage systems in 1939.

67. The drift from the country was continuing right up to the outbreak of war in 1939. There is no doubt that the main causes of this exodus have been the lower wage received by agricultural workers, the bad standard of housing and the lack in many districts of a proper water supply, of sewerage and of electricity. A further reason why many of the best and most enterprising agricultural workers have left the country has been that in the majority of small villages the elementary school has not been in a position to prepare children for scholarship examinations and for those children, who in spite of this, have gained scholarships, attendance at a secondary school has often been impossible owing to difficulties of transport and (where these exist) to the distance of the child's home from train or bus. In general, the services provided in the village whether of education, health or any other of the social services to be found in every town were of a standard far inferior to their urban counterpart. This was no doubt partly due to the weaker financial resources of rural local authorities and the greater difficulty of organising such services in sparsely populated areas, but it was also undoubtedly due in part to the urban bias with its correlative indifference to rural welfare which pervaded many aspects of national policy and administration. To give only one example. The new method of analgesia in child-birth for women in their own homes is available in cities but the regulation laid down that a second qualified person shall be present at the administration makes it impracticable in villages.

68. Social conditions in the villages have in recent years undergone fundamental changes. Until the nineteenth century village life still retained features of the manorial system, the landlord or squire frequently taking a

* i.e., of those living in rural districts which, as noted above, include many small towns as well as villages, see paragraph 5 above.

paternal (or it may be dictatorial) interest in the affairs of the village and he and his family acting as leaders and organisers of most of the village activities. The Church, too, took a prominent part in most rural social activities, country parsons often acting not only as spiritual leaders but participating in the day-to-day life of the village. Since then there has been a relative decline in the once paramount influence of both the local landowner and the local clergy. The break-up of some of the bigger estates and the impoverishment of many landowners have been contributory factors to the changes which have occurred. On the other hand many new factors have both helped and hindered the social life of the villages. Bicycles and bus services may, in some cases, have encouraged younger people in villages to rely on the neighbouring town for their amusement but they have also facilitated social life within the village itself. The success of village dances, whist drives and dramatic entertainments is sufficient proof of this. Wireless has also played its part in giving the country family new and wider interests in public affairs as well as opportunities for recreation and education which had never been enjoyed before.

69. What is important is that the typical English or Welsh village has a corporate life of its own which can be, and should be, one of its attractive features. Where such life exists it is a rare exception for a villager to be left out and to be forced to lead a lonely life, unattached to any community as is often the case in a suburban housing estate or a block of town flats. It is true that there has often been a cleavage between "church" and "chapel" but of recent years the tendency has been for this breach to become narrower. It has, indeed, been bridged by such organisations as the British Legion, the Young Farmers' Clubs, branches of the Union of Agricultural Workers and, still more recently, by the Home Guard. Amongst women the Women's Institutes have played a great part. According to local interests, so the recreational life of the village has been concentrated on the cricket or football clubs, on darts and bowls clubs, on the musical and dramatic society or dances and whist drives. Village athletics are far from dead; the major difficulty has been the drift of the young talent to the towns so that many an old established cricket and football club has in due course been unable to raise a team and has faded out.

Women's Institutes have undoubtedly been the chief factor in the improvement of the social life of rural women. The Institutes have proved the organising ability of country women and their activities have shown that the social needs of a village can, to a great degree, be met, and co-operative enterprises can be undertaken by members of village communities. In some counties Local Education Authorities have done much to forward the adult education of women by using the Institute organisation. Help in the provision of teachers in domestic and agricultural subjects, in health matters and in handicrafts and assistance in the organisation of music and drama have made many villages far more alive than they have been before. Unfortunately in this respect, as in many others, the facilities provided by County Authorities vary and in many counties the demand for classes from Women's Institutes cannot be met even for such essential subjects as cooking, upholstery and other domestic crafts. Boy Scouts, Girl Guides, Young Farmers' Clubs and other youth organisations have done much to improve conditions of life for young people in villages.

70. In spite of the help given by the Development Commission, the National Council of Social Service, the Carnegie United Kingdom Trust and other bodies, there are still too many villages without any hall or with a dreary and inadequate building. Often the upkeep is difficult. The new movement exemplified by the four village colleges of Cambridgeshire which are modern,

excellently-built senior schools designed also to serve as social centres and to provide adult education for a group of villages, had only just been born. In many counties Rural Community Councils have done much to co-ordinate the work of voluntary societies interested in rural life; they have become in some cases the centre from which information on the activities of statutory and of voluntary bodies can be obtained and in co-operation with the Rural Industries' Bureau have helped the village blacksmith and other village craftsmen. In spite of the efforts which have been made by the Bureau and the Councils, many of the skilled trades essential to agriculture are in the hands of older men and young men have not come forward to take their place. There has been a growing reliance on the mass-produced article from the town store; and whilst the local garage has provided a new outlet for the natural skill of the countryman the war has revealed the serious decline in rural crafts. Not many decades ago, in addition to the carpenter, painter, wheelwright and blacksmith every village had its sadler and wood-carver, as well, of course, as its team of thatchers. The decline of rural crafts is one of the problems of the countryside.

CHAPTER III.

The Impact of Town on Country.

I. *The Physical Impact.*

Spread of Suburbs—Ribbon Development—Suburban Industrial Development—Sporadic Building—Holiday Camps—Road Improvements.

71. While the towns exerted the pull from the country which has just been described, they also, during the two decades between the wars, exerted an increasingly strong push into it. This they were almost bound to do in any case, for so long as towns continue to grow, and grow horizontally, they must continue to occupy more land. The agricultural depression had so intensified the weakness of the resistance of the countryside to the encroachment of the town, that land considered suitable for building could be purchased readily, irrespective of its agricultural usage or quality. Far larger tracts were thus bought than were needed for immediate development and were allowed to lie idle and become derelict. So the towns spread out and sprawled over the countryside in ways that have been both terribly wasteful of agricultural land, and also inimical to the development of any real community life in the suburban fringes themselves.

72. The Royal Commission on the Geographical Distribution of the Industrial Population considered carefully the causes of the development of great cities which has been so characteristic a feature of the last century in most parts of the world, and examined from the urban standpoint the social, economic and strategic consequences of that development in Great Britain. It is not our task to cover that ground again, but it is essential in order to get a clear picture of cause and effect to review briefly the progress of suburban growth which during this century has brought the countryside to its present condition.

73. The position at the beginning of this century was that, for one cause or another, most English towns, and especially the industrial towns, were unsatisfactory in a variety of ways. Practically all of them in at least some of their parts were ugly, congested, inconvenient, and only moderately healthy,

if indeed they were not definitely unhealthy, as some of them undeniably were. There is ground for believing that an appreciation of and a yearning for the pleasures of natural scenery and a desire to live nearer to country conditions had developed in many town-dwellers who, as a result, were anxious to escape from those conditions which they had come to believe were inevitably associated with an urban way of life. If their inclinations were not so positive as that, they were at least open to the appeal of any attractive alternative conditions of living which might be offered, especially if those conditions meant living in places surrounded by trees and flowers, open spaces, and fresh air. And since the invention and rapid development of the motor car have made escape from the old urban conditions possible, the story of this century has been one of a steadily increasing encroachment of the town on the country, a steadily increasing "suburbanisation" of the country areas adjoining the towns.

74. This suburban development has taken various forms. Mostly it has occurred on the immediate outskirts of existing towns. Council housing schemes, especially, and many private building estates, have constituted actual additions to towns. But many such and other developments have taken the form of a new growth some distance away from the town edge, or of an accretion round some smaller settlement, such as a small town or village, within easy reach of the main urban centre. Other developments again have been merely strung out along existing roads in the form of the now notorious ribbon development. And still others have been almost entirely divorced from any nucleus, mere scatterings or loose groupings of houses in the open country, on the coast or in the neighbourhood of some "beauty-spot"; places inhabited by people with few or slight ties, whether urban or rural—the business man whose attendance at his office is but occasional, the week-ending townsman, and the people who are enumerated in the census returns as "not gainfully occupied", including especially the retired and elderly.

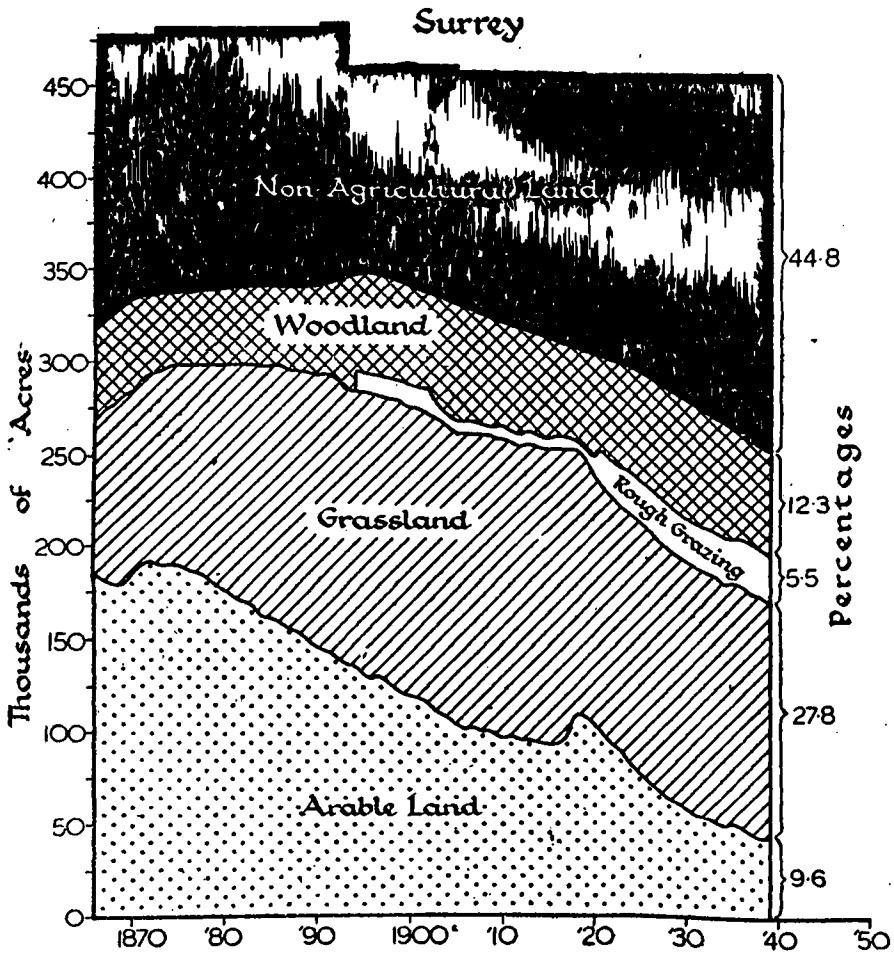
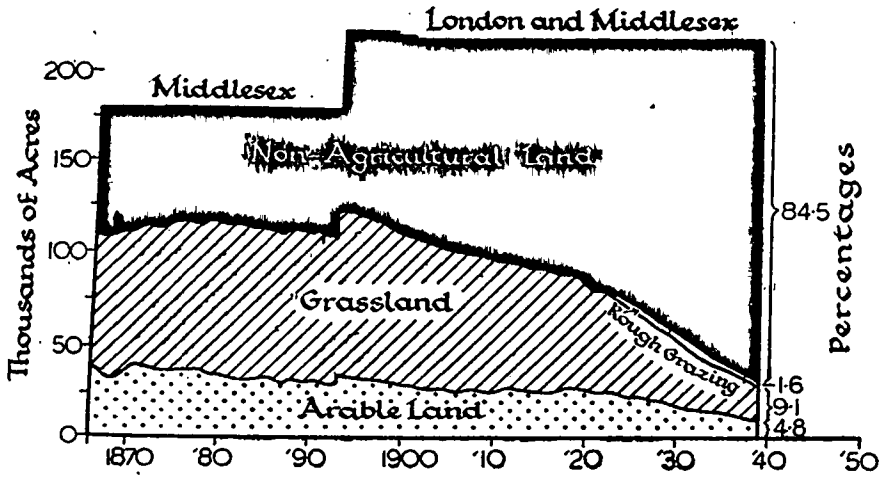
75. Nearly all this development has been characterised by a mixture of deliberation and fortuity. Much of the siting of even local authority housing has been decided by the more or less casual availability of a piece of land, or by its ease of purchase, rather than by the larger principles of good planning. So has the siting of private housing estates. Ribbon development has occurred largely if not chiefly because of the desire to avoid the charges for road-making and the provision of other services which would have to be paid if the house had been sited on new private streets—a deliberate action, certainly, but one prompted exclusively by consideration of private rather than public gain. A situation on a main road is often chosen because of the availability of bus services and, especially amongst those who have retired from town life, there is often the desire to be surrounded by fresh air and green fields but in sight of the life and movement associated with constant traffic on a main highway. Similar conditions have applied to much of the scattered sporadic development which has occurred in many districts. But although private advantages, real or supposed, have determined the choice by individuals of the location of their houses, developments of this kind from the planning point of view have almost always been fortuitous in that they have taken place because some farmer or landowner tempted or driven by the need of money thought of bungalows as his most profitable crop, even if the land never grew another for him or for anybody else. It has been a case of an individual landowner selling land to an individual builder, or to an individual migrant from the town, each acting in a narrowly individual way without any regard to ultimate public good or ill. In none of these cases was there any consideration whether from the public point of view it was better for the particular piece of land to be utilized for housing rather than for agriculture,

There was no public control; planning schemes did no more than limit the number of houses per acre to be permitted.

76. In the 20 years between 1919 and 1939 some 862,500 houses were built in "rural districts". Of these some 162,500 were built by local authorities and the remaining 700,000 by private enterprise. What number of the total was built for *and* occupied by agricultural workers it is impossible to say, for unfortunately no statistics of this kind are available: but the number must be extremely low and is unlikely to exceed a very few thousand. These figures, however, do not accurately reflect the building activity in country areas, because "urban districts" (in the local government sense) contain extensive areas of agricultural land and, as already pointed out, "rural districts" contain a considerable number of small towns. Since rebuilding on actual town areas has been comparatively slight, by far the greater part of the houses built since the last war must necessarily have been built on open land. Many if not most of the habitations built in already-developed town areas have been in the form of flats. Actual statistics of the number of flats that have been built are not available, but the number is very unlikely to have exceeded 200,000. If we deduct this estimated total from the total of 3,998,000 habitations of all kinds built in England and Wales between 1919 and 1939, the resultant figure of some 3,800,000 is probably roughly accurate for the number of houses which have been built on rural, that is to say, agricultural land.

77. Industry as well as housing has been subject to this suburban drift. The development of motor transport has lessened to a most marked degree the dependence of certain types of industry on the railway for purposes of transport, whilst the extension of electricity transmission has freed them from dependence on coal as the direct source of power. These two causes, amongst others, have produced what amounts to a new Industrial Revolution; and its social and economic consequences have been as far-reaching as those of the earlier Industrial Revolution. It holds the possibility of producing a change in the internal geography of this country not entirely dissimilar in scale to that produced in the first half of last century.

78. The changes are two-fold in kind—national and local. The increased development of light industries and a parallel decline in the older basic industries, have facilitated a movement of industrial labour from certain of the older industrial areas to other parts of the country which had not hitherto been marked by a predominantly industrial character—a drift especially from the depressed areas of the North of England and South Wales towards London and the South-East. Light industry has thus shown a considerable degree of *national* mobility. Whilst it is not the case that many industrial companies have *actually moved* their main factory from, say, the North to the South, from Tyneside to London, many old concerns have ceased to operate in the Depressed Areas and many new concerns have started in the Midlands and South. Some companies have started fresh *branch* factories: some may have transferred a branch to a fresh location. But in the heavy industries few new shops have been started in the South-East, or indeed anywhere. The reality is that large numbers of factories or workshops in the many different light industries have been set up in rural or semi-rural areas, especially in the Midlands and the South-East, relying on electricity for power and the motor lorry for transport. Proximity to the ever-widening fringes of Greater London or Greater Birmingham or some other rapidly growing town has assured the availability of suitable labour: in many cases it has assured a considerable local market for a new product which, if successful, is afterwards distributed nationally or internationally. But industry has shown a striking *local* mobility as well. Freed, either entirely or in part, from



Graphs showing the rapid increase in land occupied by housing and other urban development in counties affected by the continued expansion of London. Agricultural land has practically been eliminated in Middlesex and the County of London, and the urban growth has already absorbed nearly half of Surrey. The County of London (top graph) was carved out of the three neighbouring counties in 1893.

dependence on the railway for the transport of its raw materials, of its finished products and its workers, much of the new light industry has now an immensely wider range of local siting than the older industries had. A factory can now be established in a field at the edge of the town, or right out in the country some miles beyond. Its choice of site is indeed only limited to being near a reasonably good road and a 'bus route along which its workers can travel out from the town and its suburbs where they live. Many of the new factories in the South-East are sited in just that way, lining most of the principal roads that lead out of London, with a scatter of factories just off them. Something of the same kind occurs in the neighbourhood of many other towns. Statistics as to the number of new factories which have been established in rural areas during recent years are not, unfortunately, available: but by far the greater part of the total number of factories set up in England and Wales during the last 20 years must have been established on open land beyond the built-up edge of a town.

79. In the years immediately before the war, however, the establishment of Trading Estates provided a form of industrial development which was in direct contrast to this scattering of new factories. Three were established in 1936; one at Gateshead, to serve the Special Area of the North-East; and another at Treforest near Pontypridd to serve that of South Wales, and the third in Scotland. In under three years no less than 98 new factories were in operation on the North-Eastern Trading Estate, and a smaller number were established at Treforest. In the planning of these two estates much care was exercised to obtain an orderly development, to preserve such amenities as existed on the sites and also to create new ones.

80. The suburban spread of houses and factories has been accentuated by the construction of other buildings—or, it would be truer to say, by other erections, for many of the ramshackle creations which so often serve as "Wayside Cafes", snack-bars, filling stations and such like, cannot properly claim the dignity of being described as buildings. The nameless messes, the assemblages of caravans and converted 'buses and encampments which have littered and spoilt many a once-charming stretch of coast line, lake-side and river-side, and a hundred other attractive scenes cannot properly be called villages; but they form more than a passing intrusion of the town into the country. These disfigurements of rural beauty are not primarily designed to catch the eye of the passer-by, but public advertisements definitely are, whether on houses in the villages or on hoardings in the fields. Their blatant colours have been deliberately chosen to catch his eye and force him to look at them. As the townsman speeds outwards through the suburbs to the country they pursue him the whole way, their incongruous colouring interrupting and destroying the quiet picture of the countryside on which he wants to gaze undistracted.

81. Another development expressing in a different form the physical impact of the town on the countryside has been the establishment in country places, and especially along the coast, of permanent and semi-permanent camps for urban populations on holiday. Several hundreds of these camps had been set up before 1939. They varied greatly in size and character. Some were very large, accommodating thousands of people: they were almost towns in themselves—summer-time towns providing for a brief season the pleasures not ordinarily obtainable in the everyday towns. Some were small and provided quieter and more intimate conditions. Some were well designed for their purpose, laid out in an orderly way, built of trim semi-permanent materials; while others were squalid and disordered in the extreme. But whatever their size and condition they all reflected clearly still another new aspect of the

urban impact on the countryside, and one indicative of other similar developments yet to come.

82. A further impact of town on country, bringing habits and ways of life foreign to the countryside, has resulted through a transference from agriculture of the use of land which has still remained open. Thus the laying down of golf courses, playing fields of various kinds, civil aerodromes, and so on, has all contributed to the growing effect of the physical impact of the town upon the countryside.

83. Still another development which has arisen principally out of urban requirements in the countryside has been the extensive widening, or the new construction of many important roads in rural areas. These roads are rarely, if ever, required for local rural needs (though once they are constructed they may be useful for some of those purposes), but they may have an important effect on rural conditions. A by-pass road, for example, which has relieved a village of a continuous stream of heavy traffic which has no immediate purpose there has often been an immense benefit to the village. Some lengths of new main roads and by-passes are very beautiful, their designing being quite excellent. This is especially true of many recently constructed, where earlier mistakes have not been repeated. Many others would have been equally good had the land on either side been kept as open country instead of being ruined by ribbons of ill-sited and ill-designed building destructive both of the beauty and utility of the new road. In other cases, road improvements, however beneficial to through traffic, have been anything but a benefit in other respects. They have been roughly planted on to the countryside rather than planned as part of it—an inevitable result of the planning of roads not being part of fully co-ordinated national planning. Some have been unnecessarily wasteful from the point of view of the nation's agriculture in their ruthless severing of farms.

2. *The Townsman in the Country.*

Greater Use of Countryside—Misuse—Week-ending Townsmen.

84. Even those town-dwellers who have not left the old town areas for new suburbs have recently made increasing demands on the countryside. They have done so quite properly, though the countryman has sometimes been resentful of their intrusion—a resentment usually based on the lack of understanding of country ways too frequently exhibited by the townsman.

85. The growth of what may be grouped together as "open-air organisations" of various kinds, has been one of the most noteworthy and praiseworthy developments of this century. Such excellent movements as the Youth Hostels Association and the Ramblers' Association, which have brought the young town-dweller into the countryside, have afforded him many delights and benefits that his prototype of so recent a date as 30 or 40 years ago rarely enjoyed. The increasing use of the motor car has, happily, thrown the country open to the older generations also. This widespread opening of the countryside to the townsman has not been without its difficulties. When people have for a long time been cut off from the enjoyment of an amenity they have to learn again how to use it for their own sakes and for the sake of others. And this the townsman has had to learn to do with the country. In the first exuberance of his reintroduction in the nineteen-twenties and the nineteen-thirties his conduct there was often regrettable—especially

the townsman who was not a member of one of the "open-air organisations" for these have themselves done much to educate their members in country habits. A good deal of harm was wrought in country life, places, and things. But as the townsman's experience in and understanding of the country has developed, there has been a steady improvement in his country conduct although even up to the outbreak of war there was still plenty of room for further improvement in this direction. It had also become obvious that the townsman's demands on the country were no mere passing fashion, and that from now on he is likely to claim his place there and demand that he should be given all reasonable facilities for the enjoyment of what, after all, is the heritage of all. This is as it should be, but neither a healthy agriculture nor a contented countryside can be maintained unless it is fully recognised that to personal rights there is necessarily attached the full and frank acceptance of personal duties to others and of considerate thoughtfulness towards them.

86. The position with regard to the week-ending townsman was somewhat different from this, though against him too there have been somewhat bitter complaints of selfishness, want of sympathy and unwillingness to learn the ways of the country. One of the chief of these complaints was that, with his greater means, he had been able to acquire cottages that would ordinarily have been available for the countryman, thereby reducing the number of cottages available for agricultural workers. Further, the amused contempt typified by such expressions as "country bumpkin" with which many a comparatively well-to-do townsman has regarded the countryman, and the latter's envy of his higher money-income and his greater leisure, all have had a somewhat disturbing effect upon the rural population and have been apt to engender a feeling of discontent.

87. Thus there remained, at the outbreak of the war, a degree of misunderstanding, even of antagonism, between countryman and townsman. There is much yet to be done to create the mutual understanding and sympathy that are necessary if all sections of the community are to enjoy the countryside which, if it is the heritage of all, is in the guardianship of the countryman.

CHAPTER IV.*

The Effects of Urban Growth on the Countryside.

Loss of Agricultural Land—Quality of Land Taken—Land Speculation—Break-up of Farm Units—Alterations in Form of Agricultural Production—Effect of Fumes and Effluents—Extractive Industries—Effect of Building on Beauty of Countryside—External Appearance of Buildings—Economic and Social Effects of Industrial Development—Suggested Beneficial Effects of Constructional Work in Countryside—On Balance more Harm than Good done to Countryside by Constructional Development before the War.

88. One of the main effects of the overspill of urban areas and the encroachment of other forms of constructional development on country areas has been the loss of open land. The following table shows the amount of agricultural land which in recent years has been lost to these various forms of constructional development.

Year.	Building and general constructional development.	Sports Grounds.	Miscellaneous.			Total
			Aerodromes or Air Ministry.	War Office.	Other or Unexplained.	
Average of seven years 1927-8 to 1933-4.	Acres. 42,000	Acres. 10,000	Acres. 600	Acres. 200	Acres. 700	Acres. 53,500
1934-5	57,000	11,000	3,000	200	2,600	73,800
1935-6	55,000	13,000	10,000	1,500	—	79,500
1936-7	56,000	11,000	10,900	2,000	100	80,000
1937-8	56,000	14,000	12,200	4,700	700	87,600
1938-9	54,000	10,000	24,500	8,800	2,100	99,400
Total of 12 years	572,000	129,000	64,800	18,600	10,400	794,800
Average per year	47,650	10,750	5,400	1,550	850	66,200

These are gross figures. To offset them it is necessary to make allowance for land which, apparently lost to agriculture through building and the other causes set out in the above table, has subsequently been returned to it. In each of the three years immediately before 1939 the amount of land thus returned was estimated at somewhere about 10 per cent. of the gross total estimated to have been lost. So that the average net amount of land occupied by various kinds of buildings and other constructional development between 1927 and 1939 was about 60,000 acres a year.

89. There is abundant evidence to prove that in the past little or no regard has been paid to agricultural considerations in selecting land for constructional development. Neither the quality of the land itself nor the effect on surrounding farms has been taken into account. Sites for development have been chosen from the point of view of the usual factors affecting location, for instance, accessibility of road and rail transport, availability of public utility services and suitability of land for building purposes, and, since the development value of a site far exceeds its value as agricultural land—even where it is of the highest agricultural quality—there has been nothing to hinder the developer from taking his choice. It is often the best agricultural land—level, well-drained stretches with good soil—which is most suitable and least expensive from the building point of view. Similarly, and for the same reasons, the requirements of aerodromes have almost always resulted in the taking of first-class land. Moreover, holdings on the fringes of towns where development is most likely to take place, are often the most intensively cultivated, much of the land being devoted to market gardening.

90. Having regard to the profits arising out of the sale of land for factory or housing development, it is hardly surprising that landowners and farmers in their restricted financial circumstances should have been unable to hold out against the pressure of builders. Often, indeed, land on the outskirts of or near towns and cities was held by landowners, and even by farmers themselves, primarily with a view to sale sooner or later for building purposes. The agricultural use of land near urban centres seemed to be regarded, in many instances, merely as an interim use pending sale for development. As a result farming was often bad; the farmer lived under the threat of eviction and farms the land poorly and for quick cash returns. In other cases, the land was not farmed at all; the speculative buyers allowing it to lie idle until the market was considered suitable for a sale. This is why so much derelict land was to

be found on the borders of built-up areas. The threat of the builder overshadowed and sterilised it.

91. The effect of constructional development is often not confined to the loss of actual land taken. Sometimes the site acquired cuts right across a number of farms, taking some land from each, and rendering each of the units unbalanced and uneconomic. For example, in some cases, all arable land on a farm has been taken leaving only a few grazing fields; in some extreme cases the farmhouse and buildings have been taken over with part of the land, the remainder being left with no house or buildings from which it can be farmed. In the past little consideration seems to have been given to this breaking-up of farm units. As a result, the repercussions on agriculture have been far wider in their effect than the actual loss of the land concerned. Although heavy compensation is often paid to the owner to obtain his agreement to this procedure, this does not offset the harm done to agriculture, nor does it help a tenant farmer left to struggle with an uneconomic holding. Another example of this kind of dislocation is the driving of a main road through the centre of a holding; it forces stock and machinery to cross the road in order to go from one part of the farm to another and so causes loss of time and efficiency, apart altogether from dangers to the stock from road traffic, and resultant dangers to the traffic itself. A new road does, in fact, often necessitate the regrouping of holdings and is another example of the intimate interrelation of different forms of development.

92. Constructional development may also have the effect of changing the form of agricultural production in the neighbourhood. Owing to the closeness of a local market, agricultural land on the borders of towns and cities is usually devoted to the production of fresh vegetables or milk to supply the needs of local inhabitants. Where a new town grows up in an agricultural area the tendency is for land on its environs to change over to these forms of production. In the same way, as building develops on the fringes of existing towns, it pushes the market garden and dairy holdings on its outskirts further afield. In this way, land particularly suitable for corn growing or beef fattening has been diverted from this form of production, though this is not necessarily a change for the worse.

93. Another possible cause of harm to agricultural production comes from the noxious fumes and poisonous effluents discharged by certain types of factories. Instances have occurred where smoke or dust from factories or quarries has ruined agricultural crops for miles around, while in other instances effluents from such factories as milk or canning factories have made streams and rivers running through neighbouring farms unfit for watering the stock. Such factories have also frequently marred the beauty of surrounding country.

94. Extractive industries are another example of detrimental effects caused by industrial development, not only to agricultural land, but also to the amenities of the countryside. While it would not be in the national interest to leave permanently unworked rich deposits of coal, iron ore and other mineral resources, nevertheless it is only right to point out the disastrous effect which their working often has upon the countryside. A mere quarry on a hillside may or may not be a serious blot on the landscape; it depends on the circumstances: besides, the passage of time often clothes it with trees. On flat land dredging is the normal method of working gravel; usually the land is lost to agriculture and the abandoned pits become filled with water—a loss which may be unnecessary. When the surface soil is kept and restored, the lowering of the surface is not necessarily fatal to agricultural

use if drainage is possible. The eyesores created by colliery tips and slag heaps at iron and steel works are notorious. What can be achieved by levelling is exemplified by work carried out by isolated public-spirited mine-owners in Lancashire and elsewhere, whilst an alternative use is seen in the successful afforestation experiments in the Midlands. Not so familiar is the fearful desolation left by open-cast working of iron ore as in Northamptonshire. Apart from surface working, however, underground mining however deep below the surface causes the whole overlying burden to subside and, by dislocating the surface drainage systems, may ruin much agricultural land leaving it waterlogged and pitted by stagnant pools where subsidence has occurred. This surface trouble presents a problem which must be attacked as and when it occurs.

95. The way in which uncontrolled building has destroyed the beauties of the countryside in many parts of England and Wales has long been the subject of complaint by those who are interested in the loveliness of English and Welsh landscapes and has been noted in the preceding chapter. Although the Restriction of Ribbon Development Act, 1935, may have had some preventive effect, the total mileage of unsightly building development both before and after 1935 is considerable.

96. It is not only the scattered nature of so much building development which has disfigured the countryside. In many cases houses or buildings which are suitably sited are equally destructive of the beauty of the landscape through their external appearance. Too often villas of the suburban type, modern concrete erections or temporary buildings of corrugated iron have completely spoiled the landscape, or some village, through their incongruity. While some action has been taken to control design and external appearance of buildings under the Town and Country Planning Act of 1932, this has only been done in parts of the country, and even where such control has been in operation, its administrative enforcement has in many cases been unsatisfactory. Only limited use seems to have been made of the Advisory Panels consisting of architects and others, which were set up throughout the country by the Royal Institute of British Architects, the Council for the Preservation of Rural England and the Institute of Master Builders. Moreover, agricultural buildings are specifically excluded from control under the 1932 Act with the result that many buildings have been erected out of harmony with their surroundings whereas without additional expense they could have been both aesthetically pleasing and economically adequate.

97. The effect of constructional development on urban or suburban lines upon the countryside goes far beyond either its physical or its aesthetic effects. It has had profound repercussions on economic and social life in rural areas. The drawing away of rural workers through the lure of industrial employment in towns has already been described. When, however, industry comes actually into the countryside itself, the disturbance to rural life which, good or bad, inevitably results is brought directly home to a wider circle and brings within its scope men—and their families—who do not wish to live in towns. The planting of factories in primarily rural areas had not taken place on any extensive scale before the war as most industrial development had been on the fringe of existing centres of big population. But cases had occurred, more particularly in the years immediately prior to the war, when for strategic reasons defence industries were sited more extensively in rural areas, and in such instances there is evidence that many rural workers left their work for a factory job.

98. Even where, however, the rural worker himself did not go into the factory, grave discontent was often caused. An agricultural worker naturally

felt discontented when he saw young men and women—perhaps his own son or daughter—earning more money than himself in a routine factory job, involving shorter hours, and with none of the discomforts of working out of doors in all weathers. This discontent was increased, if, as sometimes happened, factory workers brought from a distance secured in competition with the rural worker any accommodation available in the neighbourhood because they could afford to pay a higher rent; or if alternatively they were housed at a far higher standard than the rural worker could ever hope to attain on his lower wages.

99. Apart from such causes of friction urban and rural mentalities seem in the past to have had little in common. The urban worker's point of view was noted in the last chapter. As a result of his attitude he is not always assimilated into country life. He is not, however, the only one to blame. The rural worker is apt to regard all newcomers with some suspicion. He tends to resent the intrusion of outsiders.

100. From the countryman's point of view the townsman often exhibits a regrettable lack of manners. As we have already pointed out in paragraph 85, he frequently does not understand country ways or needs; he tramples down the crops; he leaves gates open; or he lets his dog roam over sheep-grazing country. Quite unconsciously he even destroys the very beauty he comes to seek by carrying home armfuls of wild flowers and scattering litter over the land. He, for his part, is often annoyed by the restrictions which, sometimes in self-defence, sometimes in mere unreasoned dislike of the townsman, the landowner or farmer places over his land. The townsman complains bitterly of not being allowed to walk where he pleases and at being confronted with notices of "No Trespassers" on all sides.

101. On the other hand, it has been suggested to us by a number of witnesses that the difficulties caused by the impact of industrial development on the countryside do not necessarily follow. They have put the case that the introduction of industry, or at any rate of certain types of industry, into the countryside, far from causing harm, has often had beneficial effects. Some have said that a judicious mixture of town and country in this way has been a good means of revivifying rural life and bringing back prosperity to the countryside.

102. Those who in their evidence favoured the introduction of industry into rural areas hold that it is of the utmost importance to bring about a closer union between town and country and to give to each a greater understanding of the life and outlook of the other. They think that by bringing factory and rural workers together as neighbours, this aim is, at any rate to some extent, achieved, and that the more modern and progressive outlook of the urban worker revitalises country life. They contend that any incompatibility between urban and rural mentalities can be overcome and that each benefits the other.

103. They have also pointed out that the right kind of factory—though there may be few such—can provide employment for the families, including the wives and daughters, of rural workers thereby giving them a useful outlet for their energies and preventing what is often a major cause of discontent in the countryside, namely, the isolation and loneliness of the woman's existence. They say it also puts more money into the pockets of rural families and enables them to obtain more of the comforts of life. A further advantage claimed is that factories relying mainly or largely upon female labour also employ juvenile labour and in this way provide alternative employment for younger members of the family who are at present often

compelled to leave home because they are not needed on the land. It is not in human nature for all country boys to wish to become agricultural workers or farmers, or for all country girls to wish to become wives of agricultural workers or farmers. They may wish to earn their living in other walks of life, and if industry is not near at hand they will go into the towns, breaking up the family when they are still young.

104. Another benefit which certain witnesses have suggested follows from the introduction of industry are that factories bring in their wake an improvement in the physical and social amenities of the neighbourhood. Electricity, water supply and sometimes gas, as well as some system of sewage disposal, are necessary to factories, and the country areas round about benefit from the introduction of these services. Again, it has been argued that the coming of factories into the rural areas brings better transport facilities, and provision can be made for the recreation and social life of factory workers in which country workers can share.

105. Obviously the effects of the introduction of industry depend largely on the type of factory, its size, its location and a number of other factors. Before the present war most building took place on the outskirts of existing towns. Factories were only rarely established in the heart of the country, or in small villages, although other constructional development, such as housing, aerodromes or defence works, took place more frequently in purely rural areas. Similarly the effects of other constructional development such as housing, will depend on its character and siting. It is no doubt true that there have been cases where the coming of a factory into the countryside has had all or some of the beneficial effects suggested. On the other hand, in other cases, the effects have been quite the reverse, and even some advantages which might reasonably be expected to follow, such as bringing electricity and water supply, or provision of social and recreational facilities have not in fact materialised for rural workers. Electricity, although available, has been too expensive for the countryman with his lower wages either to connect or to use. A main water supply although near at hand has not been made available to villages because of the additional water rate which would fall on owners without any return in the form of higher rents. Similarly the social and recreational facilities introduced have been confined to factory workers.

106. Despite its conflicting nature, from the balance of evidence placed before us, it seems clear that in the conditions prevailing in rural areas before the war the impact of industry, or other constructional development, on the whole did more harm than good to the countryside, whether that impact arose from the spread outwards of urban centres or the growth of new factories or buildings in the heart of the countryside. On the other hand it must be remembered that the pre-war development was uncontrolled and haphazard. If the introduction of industry into rural areas were to be properly and carefully directed, some of the former difficulties and drawbacks might be overcome, or at any rate mitigated, while some of the advantages might be more fully realised.

CHAPTER V.

War and Probable Post-War Trends.

I. *War.*

War Changes—Revivification of Rural Areas through Prosperity of Agriculture—Rural Conditions of Life Unchanged—Evacuation of Population from Towns—Revival of Social Life in Rural Communities—Check on Spread of Towns and Sporadic Building—Building for War Purposes—Increased Loss of Agricultural Land—Other Effects—Conclusions.

107. The impact of war has fallen not only on the towns and cities, the factories and offices, but has also caused great changes in the countryside, in the farms and villages.

108. Agriculture is once again playing a vital part in the national effort. The urgent need to increase home production of food has radically altered both the look and the outlook of the majority of country districts. Farmers have been called upon to improve their standards and methods of farming and to bring back into cultivation land which before the war had been allowed to lie idle. The fixing of agricultural prices has played a large part in providing the essential stability of conditions. At the same time County War Agricultural Executive Committees have taken over and restored to productivity thousands of acres of derelict land. The face of the countryside is being changed; it is losing its former sad and neglected appearance.

109. The plough too has come into its own. Arable, including temporary grass, produces more human food than permanent pasture. Therefore as one of its first actions the Government launched a ploughing-up campaign. This was actually commenced before the war, when in the summer of 1939 grants were given to farmers for ploughing up permanent grassland. Since then about six million acres have already been added to the pre-war arable area. Freshly turned brown earth is now a common sight in many districts where in the decade before the war acres of grassland never saw the plough, year in year out.

110. Increased arable has been needed not only to grow more human food-stuffs but also to produce animal feeding-stuffs which can no longer be imported from abroad. In consequence there has been a return to traditional systems of mixed farming in many districts which before the war had more and more been turning over to specialised production dependent on imported feeding-stuffs. The specialised units have been obliged to rely on their own land to supply their needs and as a result a more balanced type of farming has been adopted.

111. At the same time under the supervision of the County War Agricultural Executive Committees the countryside is taking on an air of activity. Apart from large drainage and reclamation works, hedges are being trimmed; ditches cleared; urgent drainage work carried out; buildings, gates, fences and roads repaired. From an atmosphere of neglect the countryside has assumed an air of busy thriving prosperity; it has put aside the bedraggled condition which in many parts cloaked its beauty and the landscape has largely resumed its former well-kept appearance.

112. A national minimum wage has been introduced for men working in agriculture. From the earlier figure of 48s. a week fixed in 1940 it has now been raised to 60s. a week and the former disparity between the agricultural and the industrial wage has to a considerable extent been removed. A vast increase in mechanisation has taken place both to assist in increasing production and to ease the difficulties which have arisen from the loss of men to the Armed

Forces and to other industries. Agricultural labour has been supplemented by the Women's Land Army. This force, which has been largely recruited in the towns, tends to show that many townswomen, especially when confronted with a choice between factory and farm, have a preference for country life and are able to adapt themselves to country conditions. At the same time the needs of agriculture have again instilled life into many of the rural trades. Blacksmiths are busily engaged on the repair of agricultural implements; wheelwrights are undertaking the maintenance of farm implements and vehicles and village garage mechanics the new machines; carpenters are hard at work putting in order buildings, gates and fences which had been allowed to fall into disrepair; saddlers have again more work than they can easily undertake. The war has, indeed, emphasized the shortage both of those skilled in many rural trades and in the actual number of establishments where work can be carried out.

113. The conditions under which rural workers live have not, however, greatly changed. With the great scarcity of labour and materials resulting from the war it has not been possible to build new cottages or to recondition old ones. Electricity and gas supplies cannot be extended except where the need is imperative—usually to supply a munitions works or a defence unit. Indeed in some ways conditions have grown more difficult. Accommodation in rural areas has been urgently needed for many other purposes. The Service Departments have required it for billeting soldiers and airmen; industrial workers have sometimes had to be accommodated where a factory has been set up in the countryside; room has had to be found also for mothers and children evacuated from the towns and cities.

114. The evacuation of large sections of the population from the towns has provided a striking demonstration of the difference in outlook between town and country. Many townspeople who had before hardly left the cities have, for the first time, been brought into close contact with the countryside. Exact evidence of their reactions is scanty, but it seems clear that many, probably the majority, of the adults have found it difficult to adjust themselves to country ways. Country life has seemed dull. They have missed the crowds, the activity and the amenities of city life. The irrepressible flow back to the towns when danger seemed past is some indication of this reaction although it has probably been due in part to a simple desire to return home and rejoin their menfolk and, in part, where a country home has been shared, to the inevitable clash of personalities. On the other hand the children seem often to have taken to country life and to have shown a growing interest in country things. This is one of the really good effects of evacuation.

115. Through all these changes, country life has to a considerable extent been stimulated. Transport is more difficult under war conditions and rural workers have been thrown back very largely on their own resources for social intercourse and recreation. Moreover, the feeling of working in a common cause has drawn village communities more closely together and various local activities such as Allotment Societies, Savings Committees, Civil Defence and Home Guard have undoubtedly promoted a greater community spirit. A spirit of unified co-operation has replaced the old sense of isolation and individualism.

116. On the other hand the facilities available for these communal activities have become more than ever obviously inadequate. The need for more and better designed village halls and social centres has become more apparent as village life has taken on a new vigour, more especially as many of the existing halls have been requisitioned. Improvements cannot be hoped for until after the war, but the necessity of such improvements is clearly demonstrated.

117. While a revival has been taking place in the countryside the pre-war growth of towns and cities, and sporadic building in rural areas have been checked. Speculative builders can no longer obtain labour or materials. This does not mean that a considerable amount of building and other constructional work needed for war purposes has not taken place in country areas. On the contrary war factories, hostels and houses for workers, aerodromes and defence works have been built in great numbers. But the character of constructional development has changed.

118. We have been given figures showing losses of agricultural land during war years and the areas where constructional work has taken place, but for security reasons we are unable to quote them. It is possible to say, however, that the annual loss of productive agricultural land has increased considerably during the war and, as would be expected, the main cause of this lies in the needs of the Service Departments.

119. This increased loss has come about in spite of the greater control which the Ministry of Agriculture has been able to exercise over the taking of agricultural land. Shortly before the outbreak of war an arrangement was made between the Ministry of Agriculture and the Service Departments under which no agricultural land was to be taken without prior consultation with the Ministry of Agriculture. During the war this arrangement has been extended to all other Government Departments interested in the taking of land. Since virtually all constructional work is now under the control of one Government Department or another, the Ministry of Agriculture is consulted in practically every case before agricultural land is taken for some non-agricultural purpose.

120. In this way, although war reasons have in the vast majority of cases made it impossible to preserve the land for agriculture the interests of food production have usually been considered by the other Government Departments concerned before a decision has been reached. Clearly strategic considerations and urgent requirements of defence have had to outweigh those of food production with the result that a considerable amount of high quality productive land has been lost, much of it permanently, and all at least temporarily. Aerodromes in particular require level sites which usually mean good land, while factories, whose erection is urgently required, often have to be sited on better class land so as to avoid delays and difficulties in preparing the site for building. In other cases, however, it has been possible to divert constructional developments from good to less productive land by means of these liaison arrangements.

121. Similar consultative machinery exists between the Ministry of Works and Planning (which under the Act of 1942, took over from the Ministry of Health the powers under the Town and Country Planning Act of 1932) and other Government departments. Although it is obvious that in war-time the preservation of beauty cannot be allowed to stand in the way of the prosecution of the war it has nevertheless been possible to prevent to some extent the destruction of the loveliness of the countryside. In some cases where constructional developments had to take place on a particular site for strategical reasons an undertaking has been obtained that the land will be restored after the war.

122. One other development which has arisen out of the war and which is of particular interest from the point of view of the regulation of industrial location is the setting up by the Board of Trade of the Factory and Storage Control. This body completely controls all factory and storage space in the country.

Its consent must in general be obtained before premises are used for a particular purpose; before any premises are extended; before any change in use is permitted; and before a new building is erected. In exercising this control its aim is, of course, to increase war production to the maximum possible extent. In working towards this end it is bound to take into consideration all the various problems such as labour, supply, transport, power, accommodation, which are linked up with factory and storage matters. It is thus building up a very considerable and important body of knowledge and experience in the working of an administrative machine for any post-war regulation of industrial location.

123. Apart from the loss of productive land and the destruction of amenity in certain parts of the countryside, other effects which constructional developments had in peace time have been to a large extent mitigated. Under war conditions, for instance, with control exercised over agricultural production, the springing up of a factory with its accompaniment of houses has not unnecessarily diverted adjoining land particularly suited to one type of production to another type of production. Again dislocation of farm units has occurred less frequently as the result of the Ministry of Agriculture being brought into consultation, and where such dislocation has been inevitable, it has usually been possible for the County War Agricultural Executive Committees to adjust boundaries or to take over the remaining land so as to maintain it in production.

124. In a similar way the attraction of agricultural labour into other work has been largely stopped by the Undertakings (Restriction of Engagement) Order, 1940, which had the effect of tying agricultural workers to the industry. Before this Order was made the dispersal of munition factories and the construction of aerodromes and defence works in rural areas had caused a serious problem. Wages for such work were often high—far higher than the agricultural wage—while the only local labour available was agricultural and there was no accommodation for transferred labour. An example has been quoted to us of a war factory where of some 2,500 male workers at least half had formerly been agricultural workers. This order, together with the national minimum wage, has however gone a long way to check the former drift of agricultural labour away from the land.

125. Economic and social effects of the introduction of industry into the countryside still exist to a large degree. Factory workers still usually earn more money than agricultural workers, and a feeling of discontent tends to arise when the two are brought into contact. On the other hand in many cases where factories have been sited in the countryside they are sufficiently near to a town to be able to draw their labour from it. The workers travel out to their jobs daily and there is no need for extensive housing accommodation. Moreover under such conditions urban and rural workers are not forced to live in the same community. It seems clear that on the whole the greater prosperity of agriculture has reduced the friction which often resulted from the contact of urban and rural mentalities.

126. The war has brought in its wake many problems and upsets needing temporary adjustments. If, on the whole, the countryside has prospered from the purely material point of view so that some of the pre-war difficulties of rural England and Wales have been temporarily overcome, it is also true to say that the leisurely pace of country life has been rudely disturbed. If country life for some has been made less comfortable, broadly speaking it does seem true to say that the results of the war so far have been for the moment to tip back to a more even balance the scales formerly so heavily weighted in favour of the towns.

2. Probable Post-War Trends.

Examination of Pre-War Trends—Changes in those Trends Resulting from the War—Changes not likely to be Permanent; Failing Government Action, Pre-War Trends likely to Reassert Themselves After the War—Evils of such Trends from Urban and Rural Stand-points—Case for Strong and Unified Control of Constructional Development made out.

127. What of the future? What is likely to happen after the war if the Government were to take no further action to regulate constructional development in country areas? Much must depend upon the course and length of the war since these will profoundly affect conditions in the post-war period. Making every allowance, however, for such difficulties, some forecast of things to come can be attempted by examining the trends which were developing prior to the war and by considering how far those trends are likely to be modified or even reversed by war-time events and probable post-war conditions.

128. It has been shown that the most noticeable trend prior to the war was the tendency for industry to become less tied to particular localities. The decline in the older basic industries—particularly in the older export industries—and the increase in mobile light industry manufacturing semi-luxury goods and relying on electric power and road transport, led to a far greater diffusion of industry over the country. Particularly noticeable was the growth of light industry round existing urban centres in the Midlands, in the South and particularly in the South-East. This was the trend to which the Royal Commission on the Geographical Distribution of the Industrial Population (the Barlow Commission) so forcibly drew attention in regard to London and the South-East. The springing up of new light industries on the margins of big cities like Birmingham and London involved the building of houses to accommodate the workers, the provision of services to supply their needs and those of the industries and of facilities for their entertainment. As we have shown this resulted in the mushroom growth of suburbs and the "push" or sprawl of the cities into the countryside and, as detailed below in paragraph 185, in an ever-widening growth of concentric rings of housing and industry.

129. At the same time the older industrial centres in the North and in South Wales in which the basic industries and the older export trades were located, were rapidly decaying. Few new industries were springing up to fill the gaps caused by the decline of the older industries and derelict sites became more and more numerous.

130. At present the heavy industrial centres in the North and South Wales are busy once again on important war work. There has been a reversal of the decline of the heavy industries (coal, shipbuilding, etc.) and many new works have been established. The growth of light industries in the Midlands and South has at the same time changed in character since most of them were previously engaged on the production of goods non-essential in war-time. The war has also resulted in the evacuation of many industries from the larger urban concentrations and in the dispersal of a considerable number of factory and storage premises—often in small units—over a large part of the country.

131. The permanence of this reversal of former trends is bound up with both future international economic settlements and internal policy. If the factors which led to the pre-war position are allowed to re-assert themselves the former pre-war trends will sooner or later again become evident. It is difficult to see any reason for a change in the pre-war tendency of light industries to gravitate towards the larger consumption centres, more particularly where these centres are also ports. Unless, therefore, the Government take steps deliberately to check such a movement we consider that the expansion of the big population centres in the South Midlands, the South and South-East of

England will continue and that London and Birmingham in particular are likely to spread very much further afield, though the redevelopment of war-damaged centres of towns may check fringe growth.

132. War-time experience may have some effect in slightly modifying this trend and of causing the minds of some industrialists to turn towards a policy of dispersal. Evidence has been given to us by several witnesses that at any rate a proportion of those firms which have dispersed their production and storage units will wish to continue in their present locations after the war.

133. A further modification of this kind may result from the establishment of a considerable number of large war-time factories in country areas. It seems probable that some at least of these will be continued after the war either for the purpose of their present production or for other peace-time purposes. Indeed some of them are permanent and not temporary structures and were built with the intention of their continuing in production after the war. Where such factories do continue in production, housing and its attendant services will have to be provided for the workers if this has not already been done. If, as seems probable, some of these factories are used as the nuclei of new industrial centres or trading estates, this may draw away some industry from the present congested population centres.

134. What would be the disastrous effect of the re-establishment of these pre-war trends, even if modified to some extent, on agriculture and on the beauties of the countryside, has been clearly shown in the previous chapter. Apart from the social consequences of the concentration of huge masses of the population in a few centres, the effect on the countryside of the continued spread of such centres would be a national tragedy.

135. The growth of such centres would be likely to lead to an increase not only in housing or factories on their outskirts, but also of sporadic building development in the open countryside, and in villages within a reasonable car or railway journey of the town or city. If economic conditions permit it is inevitable that there will be a great increase in motoring and that this will tend to spread the dangers of haphazard building in an ever-widening circle round existing towns.

136. The movement which was leading more and more people to spend their week-ends and holidays in the countryside and on the coast as well as to use the more accessible country as a dormitory is likely to continue, more particularly if holidays with pay are extended to further sections of the community and if there is a spread of the five-day working week. This would lead to a need for more accommodation in existing holiday resorts; the creation of further holiday resorts; the building of holiday camps; the provision of additional Youth Hostels; the catering for the needs of week-enders—all of which would mean a very considerable building programme. While these needs should—and indeed must—be provided for, the building which would result, if such development were unregulated, would ruin many more districts of the beautiful land of Britain, particularly along stretches of the coast line. It would also have very harmful effects on agriculture.

137. It is probable that the condition of the countryside after the war will be very different from that in the inter-war period. Though the countryside may be in a stronger position than before the war to resist the invasion of the town, it can never be strong enough to hold on to its own even when it is in the national interest that it should do so, unless suitable conditions are created and suitable machinery and powers provided to enable it to fight its battle on terms of greater equality.

138. The broad conclusions reached, therefore, as a result of the review of the developments of pre-war years and the changes brought about by

the war are that the former trends of constructional development, with perhaps some slight modifications tending to a greater diffusion into country areas, will, unless checked and directed, reassert themselves after the war. A post-war building boom, possibly even more intense than that which took place in the 1920's, if left to take care of itself, will lead to the same, and probably worse, evils than those which took place in the inter-war period. The evils to the social well-being of town inhabitants as a result of ill-considered or uncontrolled urban spread are now well known and the evils from the point of view of the countryside are no less apparent in the years leading up to the present war. The future of the countryside will be profoundly affected whether on the one hand there is a continuation of the pre-war trend of industrial and urban development on the borders of existing concentrations of population or, on the other hand, a dispersal of the large concentrations of population under a Government policy—in other words whether future constructional development is haphazard or planned.

CHAPTER VI.

Planning Powers.

Limitations of Planning Acts—Compensation—Excessive Zoning for Building—The Rural Zone—Weaknesses in Recent Planning.

1. *The Town and Country Planning Act, 1932.*

139. During most of the period in which the changes and developments which we have described in paragraphs 44 to 50, and the subsequent chapters, were taking place, there existed powers for the planning and control of the use of land. The first legislative measure empowering local government authorities to undertake this planning and control was the Housing and Town Planning Act of 1909. That Act enabled the Councils of Boroughs and Urban and Rural Districts to prepare town planning schemes "as respects any land which is in course of development or appears likely to be used for building purposes, with the general object of securing proper sanitary conditions, amenity and convenience in connection with the laying out and use of the land, and of any neighbouring lands." In other words the application of the Act was limited to suburban areas. So was the Housing, Town Planning, etc., Act of 1919, though it widened the application of the earlier Act slightly and introduced an important development in that it enabled local authorities (other than County Councils, whose participation in planning was not authorised until the passing of the Local Government Act in 1929) to form joint committees for the purpose of preparing or adopting town planning schemes. The application of the 1909 Act was widened yet a little further by the Housing etc., Act, 1923, which enabled the Minister of Health to authorise the preparation of a town planning scheme for land (whether it was developed or not) with the object of preserving the existing character and features of a locality with special architectural, historic, or artistic interests. And later again the Town Planning Act, 1925, consolidated the planning legislation contained in the previous Acts and for the first time gave town planning, which had previously been treated as an addendum to housing, the dignity of independent legislative status.

140. In spite of the several minor extensions of the field of planning contained in the Acts mentioned above, statutory planning was largely limited to the areas adjacent to urban centres till April, 1933, when the Town and Country Planning Act, 1932, came into operation. That Act repealed and re-enacted the Act of 1925 with amendments, though the schemes which

had been begun under the earlier Act continued to bear something of the imprint of its limitations, and to suffer thereby, even though they were subsequently approved under the 1932 Act. It was under the 1932 Act that the majority of the planning schemes which are now operative in England and Wales (covering only some 1,056,000 acres by the end of 1941) were prepared and approved. Under it, too, schemes covering two-thirds of the rest of the two countries (some further 26,000,000 out of a total of 37,339,000 acres) were in course of preparation by the same date; and of these, schemes covering 4,356,300 acres had by the outbreak of war been deposited with the Minister for final approval.

141. The story of the 1932 Act is one of high hopes and subsequent disappointment. Many of the powers necessary to put into operation the intentions expressed on behalf of the Government were whittled away as the Bill proceeded through Parliament, and as the Act eventually emerged it fell far short of the hopes that had been raised by its initial form. In particular it had been the intention to extend planning powers to all land, whether urban or rural: but though the eventual Act was called a Town and Country Planning Act, practical experience quickly proved that it was entirely inadequate for the formulation of country planning schemes as such. It was discovered that the Act regarded the countryside as a mere appanage of the town, an appanage with scenic values for the townsman, which should as far as practicable be protected as the towns naturally and inevitably spread out into it. Agriculture was ignored—or only mentioned in order to exclude it. Agricultural values had no recognition at all. The enacting provisions (Section 6) precluded the Minister from approving any resolution made by a local authority to prepare a planning scheme "unless he is satisfied, in the case of land which is neither already built upon nor in course of development, nor likely to be developed, that the land is so situated in relation to land which is already built upon, or in course of development, or on which development is likely to take place, as to make its inclusion in a scheme expedient, or that it comprises objects or places of natural interest or beauty". The whole essence of the Act is that it is an Act controlling development, and "development" under it means building and similar works, and not agricultural development: indeed the exclusion of agriculture goes so far that even agricultural buildings are exempted from planning control.

142. In actual practice more land has been permitted to be brought under planning than a narrow interpretation of the limiting clauses of the Act would have allowed. The Act may now be applied to almost any land. But it still has to be applied as a control over "development", and that continues to mean control over building development. Section 18 confers extensive rights to compensation for injurious affection through planning; but by Section 19 (1) the Minister is given power to exclude various claims for compensation in respect of provisions in a scheme—under paragraph (d) if the prohibition or restriction of building operations is *only temporary** (pending the coming into operation of a general development order); and under paragraph (e) if the development "would involve danger or injury to health by reason of the lack of roads, sewers, water supply or any public services and that the provision of the necessary services would be premature, or likely to involve excessive expenditure of public money on services", or that the building operations "would be likely seriously to injure the amenity of the area". These provisions (and others under Sections 15 and 16) represent a genuine, and partially successful, attempt to limit the amount of land thrown at one time on to the building market. Whereas under the 1925 Act an owner could claim to have the whole of his land zoned for immediate

* Prohibition or restriction of this nature has to be reviewed every three years.

development (perhaps thousands of acres outside a quite small town), thus enabling him to sell widely-scattered plots for building, under these new provisions it was possible (though under weak administration it was by no means always done) to restrict his building activities to an area "ripe" for development for which he could prove a demand: so that, while, as we suggest later, an absurdly excessive amount of land had still to be zoned for housing, some of it, at least, was temporarily restricted and it was possible, in some degree, to limit the widespread scattering of buildings—always subject to the observance by the Local Authority of other rigorous restrictions which we have not space to mention, and subject to the right of appeal by an owner who may think himself "aggrieved".

Under sub-section (1) (e) of Section 19 of the Act the Minister may also exclude compensation in respect of provisions which prohibit or restrict building operations *permanently* on the ground that, "by reason of the situation or nature of the land", the conditions already mentioned (other than those relating to amenity) would arise. But prohibition against building on other grounds than these involves the planning authority in liability to pay compensation to cover the difference between the building value and the agricultural value of the area involved. Reservation of land for agricultural purposes only—inevitably, under the law as it stands, involves the planning authority in this liability wherever a claim can be established that it would be worth more to the owner if it were available for "development".

143. Whilst general prohibition *against* building usually gives rise to claims for compensation, the Act (in Section 19 (1)) provides that "no compensation shall be payable" as regards the control of the space about buildings, their number, their appearance, or their use—though a very severe sting (which was not in the 1925 Act) was introduced into the tail of this Section in a provision that "the Minister in considering whether he ought to approve the insertion in a scheme of a provision excluding compensation, shall have regard to . . . the interests of any person who would be affected by the provision . . .". Among the controls which are thus not subject to compensation the so-called density control is one of the most important.

144. It is this last loop-hole of escape from compensation that has led many authorities to the apparently paradoxical device of attempting to preserve land for agriculture by zoning it for building. By stretching a point or two it could be argued that not only was a restriction allowing not *more* than so many houses for each acre a proper form of density control, but that equally so was a restriction requiring not *less* than so many acres for each house. Using this somewhat doubtful device, many local authorities and joint planning committees, anxious to preserve agriculture and the countryside, have attempted to do something towards that preservation and at the same time dodge the ever-present bogey of compensation, by zoning the greater part of the rural land in their areas at building densities of one, three, five, ten or even fifty *acres per house*. They have not liked doing so: it was a very inadequate, cumbersome and legally dubious method of trying to attain a very desirable end; but the language of the Act seemed to leave no other method of approach possible. It is in this way that the fantastic planning record was achieved by 1937—a time of almost stationary population—that the amount of land which had then been zoned for housing in schemes that had reached an advanced stage of preparation (considerably less than half of the schemes which were actually being prepared) was large enough to accommodate a population of nearly 300,000,000 people additional to our present population of 41,000,000.

145. It was no doubt the absurdity of this state of affairs which in 1938 led the Minister of Health to ask his Town and Country Planning Advisory

Committee to advise him on the possibility of introducing into country planning schemes a new type of "use" zoning which, while it would be as free from possible compensation as "density" zoning, would come nearer to achieving a more genuine measure of real country planning. Such a "use zone" was considered by his advisers to be possible within the existing legislation, and it has since been incorporated under the name of the "Rural Zone" in many planning schemes. Within an area to which the conditions of the zone apply, agricultural buildings, dwelling houses for agricultural workers, and buildings required for rural industry* and for the winning of minerals, have free entry† that is to say, they may be erected and used there "without the Council's consent".

When an application is made to erect in the Rural Zone any building which does not fall within these types, the planning authority is required to advertise this application and to consider any third-party objections to it, the objectors as well as the applicant having the right of appeal against the authority's decision if they are aggrieved by it. There is, however, one important exception to this. It applies to a special category of buildings, namely country dwellings. A "country dwelling" (which is defined as "a dwelling house with not less than so many‡ acres of land within its curtilage, or a dwelling house occupied in conjunction with not less than so many acres of neighbouring land") is not a building which, like those mentioned above, has an automatic right of entry to the Rural Zone. It requires the approval of the planning authority: but the planning authority is not under the obligation to advertise the application, as it is in the case of applications for the other types of non-conforming building.

146. The introduction of this Rural Zone has improved the possibilities of genuine country planning within the scope of the Act of 1932, and there is no longer the same need for using subterfuges which led to the absurd position which existed before 1938. In some cases landowners have themselves individually or in combination agreed a voluntary restriction of development without claiming compensation and have thereby rendered possible zoning which would otherwise have been impossible. But even so the position is still far from satisfactory. There is a danger that the Rural Zone may merely lead to a new kind of suburbia in some parts of the country—a much more thinly spread suburbia than that which has been so characteristic a feature of the last two decades, but not necessarily a better one for that. What has been described as "pepper pot" development at the rate of one house per five acres would not genuinely achieve the "preservation of rural amenities" for which the Act is nominally intended, and it would not safeguard agriculture even if the 5 acre plots attached to a "country dwelling" were tolerably well cultivated—which they need not necessarily be, for there is nothing in the Act to compel the cultivation of the land within the "curtilage", and it may at best only be gardened indifferently or at worst be allowed to be quite derelict. Further, the usefulness of the Rural Zone, as of any other zone, is dependent on the effective administration of it by the planning authority, and like any other zone it may very easily degenerate through weak administration by some irresponsible or inefficient local council. There has not yet been sufficient experience of the working of the Rural Zone for us to come

* In this connection a rural industry is defined as being "a local industry connected with agriculture, horticulture, pisciculture or forestry, and includes any industry the staple material employed in which is grown or reared, or is the product of some thing or animal grown or reared, on land in the locality": and the buildings permitted for such an industry are usually limited to a floor space not exceeding 500 sq. yds.

† For fuller details see "Model Clauses for use in the preparation of Town and Country Planning Schemes (1939).

‡ The Model Clauses suggest 5 acres.

to any conclusion as to its usefulness for the purposes of the maintenance of agricultural land against non-agricultural claimants; and it is not for us to attempt to prophesy what the success of it may be. We must, however, record how strongly impressed we are by the fact that, in spite of the possibilities of the Rural Zone, the clear and unequivocal reservation of agricultural land against possible building use is still a form of planning which exposes the planning authority to unpredictable claims for compensation; and there can be no doubt that the fear of such claims being lodged has been one of the principal reasons for the unsatisfactory nature of many of the planning schemes which have been prepared in the past.

147. There are, of course, many other reasons for the unsatisfactory character of much recent planning: and there are many reasons why even good plans have not necessarily produced satisfactory results. For instance, during the period of the preparation of a plan, there is the great weakness that a local authority has no power actually to *prevent* development although it may be entirely contrary to proposals which it has in mind: and, besides that, there is the weakness of many authorities themselves in not insisting on the carrying out of their planning schemes in face of opposition by strong interests. There is another reason in that local authorities, hoping to attract industries to their districts, have often zoned excessive areas of land for industrial purposes. It is no part of our task to go into the details of these and other relevant reasons. Professor Abercrombie described some of them in the Report of the Barlow Commission in his dissentient memorandum, with which we are in a considerable measure of agreement. There is, however, one further matter which needs to be touched upon.

148. We have already mentioned that the formation of joint committees of local authorities for the purposes of town and country planning has been authorised since 1919 and that the participation of County Councils in such planning was made possible by the Local Government Act of 1929. Many joint planning committees have been set up. Of these, 42 (many of them covering large and important areas) were advisory—i.e., were appointed to advise the constituent authorities upon what the contents of the scheme should be; and 139 (at the end of 1941) were "executive", in the sense of being appointed to prepare and submit to the Minister the scheme for the Region. On the whole the work of the "executive" committees has been well done: some of the committees indeed have functioned admirably, producing excellent schemes. In four cases these "executive" joint committees have become executive *in the full sense* by being made "the responsible authority" for carrying the scheme into execution. But the fate of many of the plans drawn up by the advisory committees has shown a regrettable unwillingness on the part of many local authorities to collaborate with their neighbours. The fact that such local authorities were willing to appoint representatives to an advisory committee does not mitigate their apparent parochial narrowness in refusing to put advisory regional recommendations into statutory effect within their own boundaries. It emphasises it. And that, unfortunately, is what has frequently happened. In many instances an advisory regional committee has spent several years producing a thoroughly worked out regional planning scheme, and the local authorities whose own representatives prepared that scheme have ignored its proposals from the day they were published and have proceeded to plan and develop their local areas in a purely local way.

149. A more fundamental deficiency, both in the Act itself and in the working of it, has been the lack of any governmental machinery for national planning, or of any means for ensuring the consideration of the principles of national planning which ought to be applied. Even the more progressive regional schemes have been seriously hampered by this. In the result, the

planning schemes that have been prepared in the thirty odd years since planning began make a very ill-assorted and ill-balanced pattern. The big regional schemes that cover a considerable part of a county, the little local schemes that cover a hundred or so acres: the carefully prepared schemes and those that are crude and incompetent (and they are not few): the good schemes and the bad schemes: all these may together cover, or be intended to cover when completed and approved by the Minister, a large part of the country. But by no means can they be considered as parts of a coherent whole, as regional and local details fitting into a national plan, or as complying with the criteria of the many national interests involved in all planning for the utilisation of the nation's land.

2. *The Restriction of Ribbon Development Act, 1935.*

Duplicating Powers—Ribbon Development Not Prevented.

150. Up till 1935, the Planning Acts were the principal means available for the planning of new roads and road improvements and for the reservation, against other possible uses, of land which will be required for these in the future. The road proposals indeed were generally among the more important, and sometimes were definitely the most important, of the contents of planning schemes. With the passing of the Restriction of Ribbon Development Act of 1935, however, and as a result of the complications of procedure which that involved, it is not unusual now to find planning schemes which contain no road proposals whatever—a curious situation, since roads, as part of the system of communications on which all development is based, are basic to planning.

151. The Restriction of Ribbon Development Act has two main purposes. Primarily it was intended, as its name indicates, to check the expansion of ribbon building along main traffic roads ("classified roads") and to control new points of access made to those roads. Secondly it was intended to safeguard the routes of future roads and to establish "standard widths" for various types of road. All these things could be done under planning schemes with no greater difficulties than have been experienced in attempting them under this Act*; and what the Act has chiefly achieved is to introduce another Government Department into the field of planning, to the confusion of the general public and of the planning authorities themselves.

152. The Act has, broadly speaking, failed to restrict ribbon development. What it has done has been in some cases to increase the widths of the ribbons through the introduction of service roads between the main roads and the houses which line them, and in other cases to cause the ribbon of houses to turn its back, often a very untidy back, to the traffic road. The service roads have served a useful *functional* purpose as regards traffic: they have very much reduced the frequency of points of access to the main road and the interference to through traffic caused by standing vehicles. But the mere widening of the ribbon has done little or nothing to overcome the aesthetic and social objections inherent in that form of development. Ribbon development has not been restricted: it has only been regulated.

153. On the whole the main reason why the Act has failed in its avowed purpose has been precisely the same reason as that which has caused the failure of the Planning Acts, namely because of the claims for compensation against the Authority administering the Act. Yet it is only by prohibition that the evil at which the Act was aimed can be overcome.

* Except that fully effective control under the Restriction of Ribbon Development Act is immediate, whereas under the Planning Act it is delayed until the final approval of the planning scheme, which may be a lengthy business.

PART II.—RECOMMENDATIONS

CHAPTER VII

Measures for the Revivification of Country Areas

Recommendations dependent on Parallel Action in other Directions—Certain Basic Assumptions—Pre-war trends in Constructional Development—Some Positive Proposals—Rural Housing—Village Planning—Tied Cottages—Electricity—Gas—Water—Way Leaves—Sewerage—Village Institutions—Future of Agriculture—Woodlands.

154. The field of investigation covered by our Terms of Reference is part of the much wider field of post-war reconstruction. In order to see the problems of the countryside in their true perspective and in their true relationship to the national life as a whole, we have been compelled to consider evidence collateral to that directly covered by our Terms of Reference. In framing our recommendations we have found it necessary on the one hand to make certain basic assumptions which are mentioned below, and, on the other hand, whilst restricting our recommendations to our special field, we have realised that the success of any action taken on those recommendations is frequently contingent on parallel action to be taken in other fields. Where this appears to us to be particularly the case, we have ventured to make suggestions regarding action which should be taken by the appropriate authorities before the success of our recommendations can be regarded as assured.

BASIC ASSUMPTIONS.

155. Our Terms of Reference are:—

“To consider the conditions which should govern building and other constructional development in country areas consistently with the maintenance of agriculture, and in particular the factors affecting the location of industry, having regard to economic operation, part-time and seasonal employment, the well-being of rural communities and the preservation of rural amenities”.

We have accordingly assumed that the policy of the Government includes:—

- (a) establishment of a Central Planning Authority;
- (b) encouragement of industry and commerce;
- (c) maintenance of a prosperous agriculture;
- (d) resuscitation of village and country life;
- (e) preservation of amenities.

156. *The Central Planning Authority.*—Our views regarding the machinery of planning are given in a later section of this Report, but the recommendations and suggestions for practical steps in physical reconstruction contained in the following paragraphs are not contingent upon the exact form of the planning machinery of the Government. For that reason the general term “Central Planning Authority” is deliberately used here, independently of the form which that Authority may eventually take.

157. *The Encouragement of Industry and Commerce.*—We are fully conscious of the fact that the prosperity of this country has been built up, in large measure, by the development of manufacturing industries and export trade, and we are convinced that industry must be afforded every facility to re-establish itself after the war. Whilst in the past, the rapid growth of industry has often led to the creation of towns which are far from satisfactory, numerous examples can be found of the successful results of industrialists in securing the provision of good conditions for their workpeople. We have been greatly impressed by evidence of the willingness of industrialists to co-operate in the work of national planning. It has been made clear to us that a rapid

unregulated growth in unsuitable areas may have been harmful to industry itself and, in framing our recommendations, we have kept in mind the supreme importance of industrial efficiency.

The post-war rehabilitation of industry need not be incompatible with the maintenance of the countryside and we consider that both aims will be best achieved by measures designed to encourage the growth of industry in those areas where the greatest balance of advantage will result both to the prosperity of industry and to the nation as a whole.

158. *The Maintenance of a Prosperous Agriculture.*—The detailed organisation of farming and future agricultural policy are not included within our Terms of Reference, but we are compelled to make certain assumptions as to future trends. The evidence we have received makes clear the wide variety in the types of farming which have been evolved in the different parts of England and Wales, and that these types, of which seventeen are briefly mentioned above in paragraphs 17 to 20, are conditioned largely by the extremely varied physical factors in one part of this country or another. In some areas the types of farming have shown remarkable stability over long periods of years and by the very nature of the continuing influence of physical conditions must continue to change but little and then only gradually. Elsewhere there have been constant fluctuations in the relative importance, for example, of arable and grassland and Government policy during the inter-war years led to rapid changes if not in type of farming at least in emphasis on particular crops or animals. In general, viewed over the past century, there has been relative stability of land use both on the poor lands, and on the finest lands, whether grass or arable, with a maximum of variation on land of intermediate quality. The apparently different types of farming in England and Wales are, in fact, closely interdependent; thus a breeding area in one part of the country supplies the young stock for the maintenance of dairy herds in another and so on. The evidence presented to us justifies the conclusion that there will be a continuance of the essentially mixed and varied but inter-related character of British farming, and that future changes will be of the nature of simplification of farm boundaries, field shapes and sizes, of gradual reorganisation according to the needs of increasing mechanisation or of improved methods of husbandry, or in response to changing demands, rather than a complete change to entirely new types of farming such as some have envisaged. In our opinion a radical alteration of the types of farming is not probable and no striking change in the pattern of the open countryside is to be expected.

By the phrase "the maintenance of a healthy and well-balanced agriculture" we understand the continuance and revival of the traditional mixed character of British farming. This phrase was used in the statements on the policy of the Government made in Parliament by the Minister of Agriculture and Fisheries on 26th November, 1940, and by Lord Reith as the Minister of Works and Buildings, and by Mr. Greenwood as Minister without Portfolio, both speaking in relation to national planning, on 11th February, 1942.

159. *The Resuscitation of Village and Country Life.*—In Part I of this Report we have endeavoured (paragraphs 51-70) to analyse the reasons for the drift of population to the towns which was continuing up to the outbreak of war. We have noted that the drift was occasioned largely, if not mainly, by the superior economic, social and educational opportunities in the towns and the unsatisfactory living conditions in many country districts.

We are confident that the drift will not be stopped unless and until living conditions are on a parity in town and country. The recent increases in agricultural wages have removed to some extent a major economic inequality between town and country; we confidently anticipate that the former great disparity between industrial and agricultural wages or earnings will not

recr and that the country dweller will be financially able to pay economic rents and indeed to pay equally with the town-dweller for the same or comparable services, including education and health services.

We consider that the resuscitation of village life and of the countryside will not be achieved by an enforced or artificial dispersal of industry bringing to the country unwilling town-dwellers, but by so improving housing and general living conditions and so equalizing economic, social and educational opportunities in town and country that those who prefer country life will no longer find themselves and their children at a permanent disadvantage.

160. *The Preservation of Amenities.*—We regard the countryside as the heritage of the whole nation and, furthermore, we consider that the citizens of this country are the custodians of a heritage they share with all those of British descent and that it is a duty incumbent upon the nation to take proper care of that which it thus holds in trust.

In large part the beauties of Britain are man-made. Left to themselves the fields would quickly revert to thickets of scrub and brambles interrupted by swamps and bogs choked with reeds and rushes. The British countryside to-day owes its characteristic features to the fact that it has been used—in other words it has been farmed. The countryside cannot be “preserved” (though its peculiar value to the nation can be); it must be farmed if it is to retain those features which give it distinctive charm and character. For this reason neither the farmer nor the forester can be regarded as simply members of an industry or on the same footing with those in other great industries. In addition to their function of producing food and timber from the land, farmers and foresters are unconsciously the nation’s landscape gardeners, a privilege which they share with the landowners.

We regard this principle as of fundamental importance; even were there no economic, social or strategic reasons for the maintenance of agriculture, the cheapest way, indeed the only way, of preserving the countryside in anything like its traditional aspect would still be to farm it. This principle is recognised in the management of their properties by the National Trust.

The complex pattern of the English and Welsh countryside, with its mosaic of hedged fields of varied shapes and sizes, is of comparatively recent origin—since the time when enclosure began and mainly within the last two hundred years. The pattern evolved was a utilitarian one: the resulting beauty was incidental. Only in the case of the laying out of large parks has there been a deliberate attempt to mould the landscape. Each type of English or Welsh scenery has its devotees—there are those who find their greatest satisfaction in the waving cornlands of East Anglia or the rich dark earth and shining dykes of the Fens: others who would choose a remote Welsh valley or the fringe of Exmoor. Because of this catholicity of taste we do not fear the effect of changes in the character and type of farming and we agree with the Councils for The Preservation of Rural England and Wales and kindred bodies that efforts to preserve the countryside should be directed towards the conservation on the one hand of intrinsically interesting, old and beautiful structures which may be in danger of being swept away and towards directing, on the other hand, the design of new construction so that the new will not offend by reason of bad taste or incongruity with the old.

We consider that the land of Britain should be both useful and beautiful and that the two aims are in no sense incompatible.

161. *Pre-War Trends in Development.*—Before proceeding to make recommendations on the basis of the foregoing assumptions, it is important to summarise the evidence afforded by Part I of this Report as to the trend in development apparent before the war and likely unless regulated to continue after the war. We have come to the conclusion that, if no Government action were to be taken, industry together with the necessary housing would

continue to establish itself on the peripheries of the great population centres, primarily in the Midlands, South and South-East of England, leading to the still greater growth of London and Birmingham. The growth would be of new industry, mainly light industry, rather than the transfer of industry from other areas; but, as old industries died out in other districts, they would not be replaced. This trend, so marked in pre-war years, may be modified to some extent by war-time experience and some industries, dispersed to rural areas, may desire to remain there. Further dispersal of this sort is counter-balanced by the expressed intention of other firms to return to a central location. We consider that spontaneous dispersal of industry away from the broad central belt of England is likely to be small.

The first part of this Report has also made clear the frequently disastrous effects in pre-war years of the unregulated development of industry and housing on the social and economic structure and on the amenities of the countryside. Most of this development took place on the margins of existing large towns; the evil consequences would be magnified if similar development spread to the heart of the open countryside—a possibility brought very close by the construction of war-time factories in remote areas.

The evidence has made it clear that those effects of constructional development in country areas which are harmful to agriculture and the countryside generally, cannot be nullified unless the conditions of life of the rural community are considerably improved and placed on a parity with those of urban workers.

SOME POSITIVE PROPOSALS.

162. *Rural Housing*.—From many sources we have received evidence of the grave inadequacy of much rural housing. Housing conditions usually associated with slums are both common and widespread in country towns, in villages and amongst scattered dwellings, and call for drastic and urgent action. Even where the conditions cannot be described as equivalent to the slums of towns, so many rural houses lack the material improvements, now becoming general in town dwellings, that the inequality is a principal factor in inducing the migration of young people to the towns.

We regard the improvement of rural housing as an essential prerequisite to the re-establishment of a contented countryside.

The provision of electricity, gas, tap water and sewerage systems are separately considered, but we consider that new houses should be built ready-wired for electricity and appropriately constructed to receive gas and water supplies even if these services are not immediately available.

The facilities already existing (under the Housing of Rural Workers Acts) for the restoration and extension of rural dwellings, have been inadequately used in the majority of counties. Some counties, notably Devonshire, have, however, made full use of the facilities available. There is evidence that in some cases private owners have been deterred from carrying out improvements or restoring rural houses through fear of increases in assessment without the possibility of an equivalent increase in rental. The assessment position calls for consideration by the Government. The condition of all rural dwellings should be investigated by the appropriate authorities and the fullest possible efforts should be made to carry out in harmony with traditional local house design such restorations as may be needed to bring old dwellings up to modern standards.

We are not primarily concerned with the planning and design of rural houses, which is a matter for the Ministry of Health in conjunction with the Ministry of Agriculture, but the question is so vital and fundamental to the revivification of the countryside that we have made this emphatic reference to it. The number of rural houses fit for habitation is totally inadequate and a big building programme should be undertaken after the war.

The position with regard to new rural housing is unsatisfactory in several material respects. Most frequently both council and other houses designed for towns are erected in country districts, whereas country dwellings should be specially designed with provision for greater storage space, and for the drying of clothes and the prevention of mud and muck from being brought directly into the cottage. In rural housing there are often strongly marked local traditions and customs, which demand local differences in design—the deep porch in many windy areas, the “linny” or general purpose lean-to of east Devonshire, the local preference for a “parlour” are all examples. Rural housing should receive the careful attention of competent architects; designs for houses including council houses should be subject to approval for plans and elevations as well as for materials.

We are appreciative of the good work done in many counties by the voluntary Advisory Panels of architects and others in promoting good design and harmony, but consider that it is unfair to leave such important work to voluntary effort and that review by statutory Panels of paid architects and others, which we recommend should be set up, should be compulsory. The economies which would result from this expert advice should lower rather than increase costs. There is a wide and very important field for architects in this sphere of rural housing and the use of modern materials to harmonize with existing local and the traditional type of building calls for much study. It is especially important that supervision be exercised not only over new building but also over the additions to or restoration of existing buildings and it should extend to execution as well as design.

We have received some evidence that there has been a tendency to apply urban standards to rural housing and that the insistence of the Ministry of Health on reduction of internal area and costs has had a serious effect on some rural housing schemes. We would call attention to the evidence that we have received and commend to the appropriate authority for study two general principles*. The first is that the cost of sounder and more desirable building need only be some 5 to 10 per cent. above that of comparable buildings of inferior construction and that the acceptance of the lowest tender is not conducive to good building. We are confident that insufficient attention has been paid to the fact that higher initial expenditure on good housing carries with it lower maintenance costs and longer expected life of the houses, thus permitting lower rents. The second is the revision of the present dimensional limits which result in the construction of many new cottages inadequate for their functions and with elevations which are far from pleasing. Nearly all detached or semi-detached houses are too tall in proportion to their length and depth: the appearance is bound to be unsatisfactory. If a larger ground area were allowed so as to make the building longer in proportion to its height the cubic air-space required by the byelaws would be attained without loss of beauty.

In the interior design of cottages, we consider that much thought is needed. This is particularly true of the arrangement of the kitchen or living room, and whether or not there should be a parlour as well as a kitchen-living room, the number and size of bedrooms, and the provision of bathrooms (including the possibility of using the tub and shower type now so usual in America). On the one hand we have received evidence of deliberate limitation of families because of inadequate bedroom accommodation, on the other of the inadequacy of provision of smaller dwellings for the aged, widowed or unmarried. We

* We welcome the action taken by the Minister of Health since our deliberations began in appointing a Sub-Committee (under the Chairmanship of the Earl of Dudley) of the Central Housing Advisory Committee “to make recommendations as to the design, planning, lay-out, standard of construction and equipment of dwellings for the people throughout the country.”

welcome the initiation of research into the problems of rural housing (including the possibilities of prefabrication of units) by the Ministries of Works and Planning and of Health, by the Royal Institute of British Architects, the Architectural Association, and other interested bodies and we suggest the importance of consulting the representatives of the Women's Institutes and other women's organisations. We consider that women should be appointed members of all Housing Committees of local authorities.

163. *The Tied Cottage*.—We have received much evidence on this vexed question, some of it of a directly contradictory nature. The testimony of industry has been to the effect that whilst the large industrial firm should concern itself with the adequacy of housing for its workers, it is better that employer and landlord should be distinct and that the employee should pay an economic rent for an adequate home from a wage at such a level that this is possible. In the application of this general principle, there seems little reason to differentiate between farming and other industries. The farm worker and his family have a better opportunity of entering into village life and of developing as self-reliant members of society if they live in or near the village in a house for which the worker pays a proper rent independently of his job. But just as in industry there must often be a caretaker or gateman living on the premises, or as a chauffeur's or gardener's flat over the garage attached to a house can only be occupied so long as the chauffeur or gardener remains in the employ of the house, so the stockman or other key employees may be needed actually at the farm, and cottages should be allocated for the purpose. We are thus in favour of reducing the number of tied cottages to a minimum. Such tied cottages should be reserved for men whose duties necessitate their living near the farm, as for example, duties connected with the management of livestock. Tied cottages should not usually, except after approval by the appropriate authority, be used for other persons. We realise that there may be occasions when shortage of cottages which are not tied may either cause hardship to a new employee by compelling him to travel unduly long distances to his work or it may result in the inability of the farmer to secure labour with a consequent lowering of the efficiency of his farm. We would lay stress on the actual shortage of cottages which seems to exist in most rural areas and would suggest the building of a sufficient number of "untied" cottages as near as possible to the village or nucleated settlement. We believe for various reasons that the demand will be great. The supply of "free" cottages (by which we mean all those not tied to a particular farm) ought always to be kept sufficient to house at least the agricultural workers of the district.

We are convinced of the advantages of house ownership to all sections of the community and, with a continuance of the improved position of agricultural wages, farm workers should be encouraged to have cottages built for their own occupation; and with this end in view the subsidy provision of £10 a year for 40 years of the 1938 Housing Act should be more widely known.

164. *Agricultural Buildings*.—The present exemption granted to agricultural buildings is unsatisfactory. All buildings should come under review, but it is recognised that special criteria will need to be adopted in considering the suitability or otherwise of agricultural buildings from the amenity point of view. There need seldom, if ever, be any incompatibility between good appearance and utilitarian economy on the farm.

165. *Electricity*.—The supply of electricity is an essential service which in due course should be available in the home of practically every citizen in town and country alike, at no higher price to the consumer in the country than in

the town. A century ago the Penny Post was introduced and a graded system of charges for other postal services gradually established on a national basis, so that everyone everywhere became entitled to equal postage benefits, whether in town or country. We were much impressed by the evidence we received that a comparable national supply of electricity could be attained by appropriate reorganisation of the distribution side of the industry, and that parity of cost between town and country could be achieved without increasing the burden on the town. Mindful of the progressive attitude of the industry and of the excellent work of many distributing companies, marred only by the lack of resources or initiative in some of the smaller or older units, we recommend that the Electricity Commissioners should be instructed to prepare a scheme for the reorganisation of electricity supply to consumers and to make a report for the consideration of the Government. The scheme should pay attention to the following possibilities which have been brought forward in evidence:—

(a) the standardisation of voltage throughout the country and the conversion of all D.C. to A.C. (direct current to alternating current).

(b) the standardisation of all fittings and regulations regarding insulation, wiring, etc.

(c) the rationalisation of supply areas.

(d) the standardisation of charges throughout the country preferably on a flat rate per unit, with two-part tariff facilities, or graded according to consumption and/or situation.

(e) the provision of a supply, within a given period of years after the war, to every village of 250 inhabitants or over throughout the country, and the laying of a service line free of charge to every dwelling or other occupied building therein—the only capital charge to consumers to be that of wiring their own premises and providing their own equipment.

(f) the provision of a service line on request without charge to every village or hamlet of less than 250 inhabitants and every farm and industrial establishment within 100 yards of a supply cable, and the fixing of reasonable standard charges (either on a capital or rental basis) for supply lines beyond that distance.

In making this recommendation we are influenced by the evidence received of the success attending comprehensive schemes for rural supply, it being shown that farms are large consumers of electricity, and that such schemes, especially where gas is not available, have resulted in an actual lowering of charges to *urban* consumers whose consumption, often for lighting only, is relatively small.

We suggest that the enforcement of the under-eaves system of distribution in villages should be considered, as being compatible with the aesthetic standards which such bodies as the Council for the Preservation of Rural England desire to see adopted; it being much less costly than any underground system.

At present the industry is to all intents and purposes exempt from planning control because its units are statutory undertakings. Whilst in the past with *local* town and country planning this position has been defended, we regard it as essential that these and all other statutory undertakings should come under *national* planning control.

This reform, as we point out later, will necessitate careful consideration by each House of Parliament of its procedure for private bill legislation.

166. *Gas*.—We have taken note of evidence submitted that a large proportion of consumers whilst using electricity for lighting prefer gas for heating and cooking, and consider that new houses should be so constructed as to give the tenants the option of using either gas or electricity for cooking and/or

heating. The thermal efficiency achieved by the conversion of coal to gas and coke is such that not only should the use of coke stoves and fires be encouraged on that ground alone, but also as promoting a smoke-free atmosphere. Since gas is, according to evidence received, essential for certain industries and its place cannot conveniently be taken by electricity, we consider there should be the closest collaboration between the gas industry and planning officers especially where the location of a new industrial plant is concerned.

We view with approbation the growing improvement of gas distribution and the development of local gas grids and would welcome greater uniformity of charges and conditions of supply. We believe the considerable extension of gas supplies to villages is possible, probable and desirable.

We note with pleasure the attention now being paid by the Gas Industry to the design of gasholders and we hope that more will be done.

We recommend that the Ministry of Fuel and Power and the Ministry of Agriculture in conjunction with bodies representing the industry and in consultation with the Central Planning Authority should examine the possibilities of extending gas supplies to rural areas and prepare plans accordingly.

We consider that gas as well as other statutory undertakings should be brought under national planning control.

167. *Water.*—We consider the provision of a piped water supply an essential service in every village and on every farm and a desideratum in every dwelling. We do not, however, consider that the provision of a piped supply to villages necessarily involves the linking up with a large supply system, since the application of electricity to pumping should often make available local underground supplies. At present the absence of adequate supplies from any source is a serious deterrent to efficient farming on many farms and the provision of electricity will thus perform this as well as its other useful functions.

We note with approval the steps which are being taken by the Ministry of Agriculture to assist in the provision of water to farms.

We recognise that the Water Supply Companies regard with the utmost seriousness their primary duty to the nation of maintaining the purity of their water supply and agree that this function must come first. At the same time we consider that a diversity of existing practice indicates that several matters of vital interest could well be reviewed. We accordingly recommend that the Ministries of Health and Agriculture, in conjunction with the industry and in consultation with the Central Planning Authority should review the whole position of water supply from the national point of view with special reference to the following matters, amongst others:—

(a) the provision of a main supply to all towns and larger villages not at present supplied.

(b) what reorganisation of areas of supply, public or private, may accordingly be needed.

(c) in the case particularly of the Northern and Midland areas the question of a dual use of gathering grounds, especially for afforestation or hill sheep farming, and the formulation of rules capable of wide application governing public access.

(d) the facilitation of a piped supply to all farms, market gardens and allotments.

Without expressing a definite opinion, we desire to place on record that evidence has been received showing that certain Water Companies, or the bodies controlling them, have used their privileged position as statutory undertakings outside planning control to take action which might have been

modified to serve better the national interests. The siting of reservoirs, the compulsory acquisition of some of the finest land in the country, the prohibition of access to areas controlled, and conditions imposed as to supply to areas passed by long distance mains have all been mentioned in evidence. We consider that all water undertakings should be brought under the national planning control, whilst leaving the supervision of their development functions to the appropriate executive Ministry.

168. *Way Leaves*.—We recommend that the position with regard to way leaves should be examined and that electricity, gas and water supply undertakings should be placed on a comparable footing and that provision for the requisite rights of compulsory acquisition of land and way leaves should be embodied in local planning schemes. All questions affecting more than one local planning authority will, under the new legislation, be naturally the concern of the Central Planning Authority.

169. *Sewerage*.—The provision of a piped water supply results inevitably in a large *per capita* increase in the consumption of water, and may render inadequate many local sewerage systems previously both efficient and adequate. A main drainage system is frequently more difficult and more expensive to provide than a main water supply, but is not inevitably necessary. We consider that the provision of an adequate water supply is so important that it should not necessarily be held up because difficulties of disposal of sewage may arise later but consider that the latter problem must be investigated individually in each case.

170. *Village Institutions*.—In the course of the past 50 years there have been fundamental changes in village life which call for equally fundamental changes in village institutions. Sixty years ago, before the advent even of the bicycle, the average village was a closely-knit social unit, living a self-contained life and having little contact, especially in winter, with the outside world. There was not infrequently a sharp cleavage between the "church folk" and the "chapel folk," but the squire or the lady of the big house and the parson were the acknowledged leaders of village life, aided, abetted or it may be opposed (which lent variety) by the schoolmaster, the nonconformist minister, possibly the publican, and perhaps the doctor and a few leading residents.

The advent of the bicycle, still more of the motor and motor bus, broke down the sense of physical isolation. Then came the cinema in the neighbouring town, followed by the wireless in the home; and the two together broke down the sense of cultural isolation. At the same time has come the decline of squirearchy and with it has lapsed the old-time leadership of the squire. In many villages life still centres round Church and Chapel, but because of outside contacts each has ceased to be the chief stimulus of social life as was often the case in the past.

Socially, the village has tended to become a loose and indeterminate unit with some of its members looking almost exclusively to the neighbouring town for their amusements, whilst the others suffer from the resulting decline of local institutions, thus robbed of the support of a considerable fraction, especially of the younger people. There are exceptions, where improved transport facilities have been used to bring new life to the village and where modern inventions, notably the wireless, have been adapted as they should be, to resuscitate village life.

We are convinced that the cardinal problem is how to refocus cultural life within the village itself. For the women, the Women's Institutes have shown in recent years how much can be done in this direction; more recently it has been seen that the Home Guard has provided a new common meeting

ground for the men: Guilds, sisterhoods, brotherhoods and rallies, associated especially with the various religious bodies, have had an important unifying function. In many villages athletic clubs, musical and dramatic societies continue to function, but often are hampered by lack of a central meeting place. The team spirit engendered by village games makes for team spirit in the village as a whole.

The question of village institutions is a fundamental one in the life of rural Britain, and we recommend the setting up of a permanent advisory body to include representatives of the Board of Education, the Ministry of Agriculture and the various national bodies concerned, e.g., the National Council of Social Service, the National Federation of Women's Institutes, etc., as well as of the religious bodies interested. From the evidence submitted to us we offer the following general conclusions for consideration.

Every village should have what, for lack of a better name, may be called a community or social centre. For a large village or group of villages, the Cambridgeshire Village Colleges are very near the ideal. In that case they are provided by the county with the assistance of the usual grants for educational buildings, and controlled by the County Director of Education, and, in addition to the part used as a central school, they combine the functions of club, village hall, theatre, library and adult education centre, and to which may be added a canteen and clinic. Such village colleges do in fact set out to provide for the needs of the people, from birth (or even before, in the ante-natal clinic) to old age, in the club and canteen (which are actually well used by old age pensioners). It is important to notice that all the powers needed by the county to provide these centres already exist throughout England and Wales. So important is their function that finance—they are eligible for grants on the same conditions as for schools—the only bar at present, should not be allowed to stand in the way of their wide adoption. We accordingly recommend that steps should be taken to provide social centres of the village college type throughout the country.

The success of such village centres depends very largely on the personality of the warden in charge. Evidence presented to us suggests that in the early stages a carefully trained and carefully selected leader is essential, but that, given a good start, organisation and leadership may be found in the village itself.

In smaller villages at least a village hall with a committee room and kitchen should be provided; and there is some evidence that, whilst controlled by the village community, for economy of maintenance it might adjoin the village school, though the use of the school itself for meetings is rarely completely satisfactory.

We consider that a properly elected parish council, meeting regularly in the village hall, is a very important instrument in the maintenance of village life. The performance of certain duties should be incumbent on the council. Witnesses have been unanimous in their condemnation of the present form of election by show of hands.

We are mindful of endeavours already made to provide social facilities in the village, and view with approbation the good work of some members of the brewing, catering and hotel industries in improving village inns—in their external appearance, in their internal appointments and in their conduct or management. In this connection the work of the Peoples Refreshment Houses Association is to be noted. It is still a fact, however, that the village inn remains a rendezvous of the men and that village women do not normally use it. On the other hand we view with profound disapproval the growth of abuses which have come to be associated with the term "road-house," and we should welcome a greater strictness of managerial control and restriction of the granting of licences where such premises are in or near villages. We

have received evidence both of the disturbance caused to the life of rural communities by the late hours kept by the users of "road-houses" and of the resentment thus created in villages. Properly built and managed, a good road-house may be both an embellishment of the road and a real convenience to the passer-by.

171. *Playing Fields*.—The provision of playing fields is too often regarded as essentially an urban matter. We consider that every village should be provided with adequate playing fields; and we recommend that this matter be considered in conjunction with the provision of a social centre, which is dealt with in the preceding paragraph.

We use the plural 'fields' because, apart from the provision for cricket, football and other games a separate field is often needed for children. The playing field is vital to community life. The National Playing Fields Association have found that a grant of public money to the extent of 50 per cent. of the approved expenditure (though in exceptional circumstances more may be needed) has in most cases been a sufficient stimulus to evoke voluntary help for the rest. We recommend that the Association's assistance be invited by the Ministry dealing with the matter.

172. *The Future of Agriculture*.—Although the detailed organisation of farming and future agricultural policy do not come within our Terms of Reference, we have pointed out in paragraph 158 that one of the basic assumptions that we have had to make is the maintenance of a prosperous agriculture after the war. We consider that the well-being of rural communities and the preservation of rural amenities are dependent upon this, and no conditions imposed upon constructional development taking place in the countryside will be effective unless agriculture itself is in a healthy condition. In the light of the Government's statements to which we have referred and of our own Terms of Reference we feel justified in making the assumption that it is the Government's intention to maintain a prosperous agriculture after the war; with such an intention we are in profound agreement.

It is clear that the impact of war has not only brought agriculture into the front line of essential services for the purpose of national defence, but has stimulated a movement within the industry itself which is already creating a new outlook. There is now rapidly emerging, partly due to the stimulus of war, not only among farmers themselves, but among the general public, a lively appreciation of the importance of our oldest industry and a determination to make proper use of the land which is one of our greatest national assets.

We have received a mass of evidence upon agriculture and we feel that it may be helpful to set out some of the main points emerging from that evidence which call for attention. Our agricultural witnesses agreed that:—

(1) It is essential for the Government to formulate and adopt a long-term policy for agriculture.

(2) Agricultural land must be properly farmed and maintained in good heart, and effective control should be exercised over landowners and farmers and a good standard of farming continually enforced.

(3) Measures should be taken to secure as far as possible stability of conditions governing farming.

(4) Agriculture requires a considerable amount of new capital to enable it to produce more economically and efficiently.

Evidence was also received that changes may well result owing to national nutritional needs.

The evidence showed that, in spite of difficulties, there has been an increase in output per man and yield per acre in farming in this country in the last few decades. By reason of the great development of mechanisation during the war, the cost of cultivation operations in relation to output is being substantially reduced. It is significant that the large expansion of arable acreage during the war has been achieved with little if any increase in the number of persons regularly employed on farms. There appears also to be great hope that taking the country as a whole the average yield per acre of agricultural products should continue to increase—more particularly if the present system of technical advice and of passing on the results of research by field demonstrations, demonstration farms and other means, to the farming community is continued and developed after the war.

Given the above conditions, the evidence indicates that there should be a further great increase in the future efficiency of the industry.

173. *Forestry and Arboriculture.*—Though the climate of this country is naturally suitable to forestry, forest and woodland to-day occupy only a little over 5 per cent. of the surface of England and Wales. From the economic point of view there is much low-grade land which would be more efficiently used in the national interest in growing a crop of trees and we consider that there should be an extension of afforestation on poor land. We are aware of the criticisms that have been levelled against the Forestry Commission particularly in regard to their policy of planting rectilinear blocks of conifers. Regarding timber as an important crop, greatly needed by the nation, there is no doubt as to the justification for this policy and of the importance of an adequate supervision of woodland, and we are satisfied that, where economic conditions justify, the Commissioners are alive to the importance of native hardwoods.

We recommend that the Forestry Commission be empowered to enforce the proper management of all woodland in the country. This is important to the nation from the economic point of view, and just as the preservation of the beauty of the countryside will be secured by efficient farming, so the beauty of our woodlands will only be secured by proper management. For instance, the value of good management is already apparent in the New Forest and the Forest of Dean. In areas where amenity is a major consideration we note with pleasure the sympathetic attitude of the Forestry Commission towards planting with landscape effects in view, the development of selective felling and the growing of selected hardwoods.

In those areas suitable for afforestation but of low agricultural value we consider the establishment of foresters' part-time holdings, the erection of attractive foresters' dwellings and the opening up of forest parks, in accordance with the Commission's existing practice, will do much towards reviving the areas concerned.

Much of the beauty of the countryside is due to the clumps of trees planted by the great landowners of the eighteenth century and to the scattered timber of the parks and hedge-rows and we look for the maintenance of this tradition. We deplore the failure to plant new trees much more than the removal of those which have reached a ripe age and are due to be replaced. We consider that far more attention should be given in the design and lay-out of housing developments to the careful selection and planting of trees and shrubs. When new building is undertaken in the countryside, much destruction of beauty is often caused by the unnecessary removal of trees and by the replacing of the old whitethorn hedges of the fields by new fences which induce a sense of unattractive nakedness not readily hidden. This also calls for care in local planning control.

CHAPTER VIII.

The Preservation of the Countryside.

Countryside is Heritage of all Nation—Access to Countryside—Footpaths—Control of use of Rights of Way—Highways—National and Regional Parks—Nature Reservations—Camps.

174. We have pointed out in the preceding chapter that we regard the countryside as the heritage of the whole nation and that it cannot be "preserved" unless steps are taken to afford those who live in the country adequate opportunities to fulfil their duties as citizens. We pointed out in Part I the not infrequent clash between urban and rural mentalities and indicated that an underlying factor in this clash was often the differences in economic conditions which have in the past existed between town and country. We have also referred to the prime importance of removing past inequalities and we look forward to a future with a happy, contented rural England and Wales. We now deal with the conditions which must govern the enjoyment of that countryside, especially by town-dwellers.

175. *Access to the Countryside.*—The principle that the countryside is the heritage of all involves the corollary that there must be facility of access for all. It also follows that facilities for access must not interfere with the proper use of the land in the national interest and must therefore be controlled in that interest. We are convinced that there is still great need for a better understanding, based on both good will and better knowledge, between town and country. Much resentment exists as a result of trespass notices and closing of access to fields and footpaths; but there is no doubt that much damage is done by litter, especially by bottles, and the leaving open of gates, whilst huge areas once important for sheep breeding are rendered almost useless because of the townsman's dogs. We consider that it is essential to extend definite instruction in the schools, urban and rural alike, and to carry on a vigorous wireless, press and poster campaign to educate the public. Some positive suggestions are made below and we recommend that the Board of Education and the Ministry of Agriculture should be asked to organise a publicity campaign with the bodies concerned to educate the urban public, landowners and farmers with a view to promoting mutual understanding and the better provision of access generally to the countryside. A wide extension of organised visits officially recognised or supported by the Board of Education of parties of school children into the country along the lines of the School Journeys' Association should play an important part in this educational work. We note with pleasure the efforts of the several open-air organisations to maintain a good standard of conduct amongst their members—associations such as the Ramblers Association, Cyclists' Touring Club and Youth Hostels Association, and would welcome an intensive move of the same sort from the motoring organisations since motorists are often the worst offenders. It is recognised however that the chief offenders of all types are those unconnected with any organisation. If these measures fail we consider that severer penalties and a stricter enforcement of the law will be essential. In this connection the provisions of the Access to Mountains Act, 1939, are relevant. This Act provides that the public shall have access, with due safeguards, to land which is declared for the purpose by the Minister of Agriculture as "mountain, moor, heath, down or cliff" within the Act.

176. *Footpaths.*—Much damage by trespass, the breaking down of hedges and unnecessary opening and leaving open of gates is undoubtedly due to the difficulty of finding footpaths.

We commend the work of the Commons and Footpaths Preservation Society as a voluntary body but consider it should be a statutory obligation upon the local planning authority to record on maps and to signpost clearly all undisputed rights of way and to endeavour to reach agreement with owners in all disputed cases.

We make the following recommendations:—

(1) The setting up of a small Footpaths Commission with power to investigate all disputed cases and to give decisions (subject to some right of appeal to the County Court) thus obviating the costs of legal proceedings in each case.

(2) That this Footpaths Commission should have the duty of recommending the opening of new public footpaths and the closing of old, an order from the Central Planning Authority sufficing to make the changes legally effective.

(3) That the supervision and upkeep of footpaths including stiles and bridges (*e.g.* over dykes) should be a statutory obligation on the local authorities.

(4) The recording and marking of footpaths in hilly or remote areas in the continental fashion by bands of colour on trees, posts, stones, etc.

(5) The recognition of such schemes for main "hikers highways" as the proposed Pennine Way but the opening of such paths should not give right of passage over adjoining private property.

(6) The re-opening of the old "coastguards path" as a right of way for walkers round the whole coastline of England and Wales except where existing building or other constructional development including newly raised seawalls of earth construction renders this impossible in which case inland detours should be clearly indicated.

(7) The Footpaths Commission should also deal with bridle paths by a similar procedure.

Where narrow roads are carrying increased traffic we recommend consideration be given to the provision of footpaths on the field side of existing hedges, fenced off from the remainder of the fields where necessary as advised by the agricultural authority, and the same system to be considered in road widening schemes. Where new trunk roads are under construction we consider that more attention might be given to separate footpaths, not necessarily following the line of the road.

177. Control of use of Rights of Way.—We have received evidence which indicates considerable antipathy between different groups of users of rights of way. In particular walkers regard as an intrusion the use by cyclists of narrow paths, both walkers and cyclists protest against the use of "green lanes" by motorists, whilst motorists point to the danger and inconveniences caused by cyclists using the motor tracks of new arterial highways where cycle tracks are provided. There are grounds for a restriction of use of any given right of way but such regulation must be on a reciprocal basis and we recommend that a committee of the appropriate authorities and representatives of the interested bodies be set up to attempt to reach an agreed formula; failing agreement the matter should be settled by Government legislation.

Highways are dealt with in Chapter XI.

178. *National and Regional Parks and other open spaces.*—The establishment of National Parks* in Britain is long overdue. In so far as the character of the country it is desired to include within a national park is determined by the type of farming (e.g. mountain sheep farming) it is essential for that form of utilisation to be continued with the proviso that in the case of a national park it becomes secondary to the main purpose which is public recreation.

We recommend that the delimitation of the parks be undertaken nationally and we recommend the setting up of a body to control National Parks under the Central Planning Authority or other appropriate Central Authority.

We view with appreciation the work of the Forestry Commission in the establishment of National Forest Parks, and the magnificent work of the National Trust.

As part of a National Parks Scheme we recommend that the coast of England and Wales should be considered as a whole with a view to the prevention of further spoliation.

So far as smaller regional open spaces are concerned the remaining common lands of the country form a natural nucleus for a national scheme. We recommend that the Central Planning Authority should, in conjunction with the Ministry of Agriculture, take steps to record details of common lands, to safeguard any public rights of access or use, and otherwise to ascertain the position of commoners' rights. We recommend further that the question of the upkeep of commons be investigated.

179. *Nature Reservations.*—While some of the larger National Parks will naturally form or contain "nature reserves" and it may be possible to set aside portions of them specifically for the purpose, it is essential in other cases that prohibition of access shall be a first consideration, and for this reason nature reserves should also be established separately from National Parks. We recommend that the Central Planning Authority, in conjunction with the appropriate Scientific Societies, should prepare details of areas desired as nature reserves (including geological parks) and take the necessary steps for their reservation and control—which must be strict if rare species are to be safeguarded.

180. *Camps.*—We envisage with the extension of holidays with pay, the rise of agricultural wages, and the establishment of national parks, and also for other reasons, an increasing demand for accommodation in the country, including the coasts, and means of travel thereto. Provided they all come under appropriate planning control, we view with favour the increase of Youth Hostels, the further provision of camping grounds and camp sites, commercial holiday camps and holiday villages. It is presumed that appropriate camps will be provided in National Parks. We consider that auto-camps on the best American model might well cater for the motorist, motor cyclist or cyclist of moderate means—especially for married couples who are not provided for by Youth Hostels. We would call attention to the provisions of the Camps Act, 1939, for the facilitation of the construction, maintenance and management of camps of a permanent character.

* The term 'national park' though generally understood (in its intended sense for considerable tracts of beautiful country) because of the old established and well-known examples in the United States and elsewhere, does cause confusion in the minds of others because the word park suggests—wrongly—either a town park or a gentleman's estate.

CHAPTER IX.

Industry in Country Areas.

Conditions Precedent to Introduction of Industry—Extractive Industries—Restoration of Worked-out Areas—Immobile and Heavy Industries—Linked Industries—Mobile Industries—Public Utilities—Rural Trades and Crafts—Location of Factories—Seasonal Employment.

181. The main task which we have been set by our Terms of Reference is to consider the conditions upon which building and other constructional development should take place in country areas, without harming agriculture and the well-being of rural communities, or spoiling the beauty of the countryside.

182. We have pointed out in Chapter VII of this Report that in our view, whatever conditions may be imposed, constructional development in country areas *must* be inconsistent with the maintenance of agriculture and the well-being of rural communities (and so also with the preservation of rural amenities) *unless* economic and living conditions of farmers and agricultural workers are brought to an approximate parity with those engaged in industry and commerce.

183. We have also drawn attention in Chapter VII to various steps which in our view require the most urgent attention of the Government and we wish to stress that in our opinion these steps must be considered as *conditions precedent* to the introduction of industry and the constructional development necessary to industry in country areas if agriculture and the countryside—which are interdependent—are not to suffer harm. The recommendations contained in this part of the Report must therefore be read subject to this important consideration.

184. For the sake of convenience we have divided building and constructional development into three broad categories, namely:—

- (a) Industry—considered in this chapter.
- (b) Housing—considered in chapter X.
- (c) Other constructional development—considered in chapter XI.

185. Industry and commerce are the key notes to urban concentrations. The concentration of industry and industrial populations in congested urban areas formed the subject of the Barlow Commission's investigations. They came to the conclusion that such concentrations are socially undesirable and recommended the decentralisation or dispersal of both industry and the industrial population from such centres. We should like to emphasize the leap-frog movement by which belt after belt of industrial buildings and housing is, added to the city which thus sprawls outwards over the surrounding countryside. While the Barlow Commission suggested that the best method of achieving dispersal should be studied by the Central Authority, which they recommended should be set up, we understand that their chief concern was to check the concentration of population in the South Midlands and the South-east—particularly in London—and if possible redirect industry into industrial areas in the North and in South Wales.

186. The implementing of the Barlow Commission's recommendations does not therefore necessarily mean industry coming into country areas. But it is obvious that it would make the coming of industry into country areas more likely. Whether widespread dispersal of industry into the countryside does in fact come about or not, we have reached the conclusion, as a result of our survey of the position, that the continuation of *unregulated* constructional development following pre-war trends cannot be consistent with the maintenance of agriculture, the well-being of rural communities or the preservation of the beauty of the countryside, or indeed with the well-being

of the nation as a whole. We fully appreciate the great importance to this country of manufacturing industry and commerce and that our prosperity has been built up in large measure by their development. We believe that the proper planning and regulation of industrial location, for example by the method of local zoning which has already become an integral part of existing town and country planning, would be beneficial to industrialists and should, if properly carried out, assist them in the great task of rehabilitating industry and commerce after the war.

187. Industry varies greatly in character and the different types may be classified in many different ways. For the purposes of our consideration we have found it convenient to distinguish seven broad categories recognising at the same time that there are no hard and fast lines between the categories. Our classification is closely related to the problem of location.

The categories we have used are:—

- (1) Extractive Industries and certain industries based thereon.
- (2) Immobile or Rooted Industries.
- (3) Linked Industries.
- (4) Mobile Industries.
- (5) Public Utility Undertakings.
- (6) Rural Trades and Crafts.
- (7) Trades providing the conveniences of life.

188. *Extractive Industries.*—These comprise all the mining and quarrying industries. Obviously these industries must be located where the rock or mineral is found and it would seem at first sight that their location is fixed by the geological structure of the country. It is self-evident that a coal mine must be located where coal occurs. It is important to distinguish however between those cases where it is the ultimate intention to remove all or as much as possible of the mineral substance and those cases where the mineral occurs in such abundance that only a small part of the resources will, even eventually, be used. In the first group come coal, iron ore (at least iron ore above a minimum metal content) and other metalliferous ores generally. Into the second group come building stones, road metal, limestone or chalk for cement and lime, clay for bricks and tiles, sand and gravel for building.

In the first group control over the location of the industrial plant needed is strictly limited. In the case of coal mines there is a certain latitude in the exact site which may be selected for the shafts; and, if the siting of the surface works presents alternative choices, this is still more so of the spoil heaps. It is clearly in the national interest that coalfields should be effectively worked: it is in the local interest to secure that the actual workings do the minimum damage to the features of the district and to this extent the local planning authority should exercise control over details of site and appearance of works. Extractive industries, almost more than any others, are harmful to agriculture and destructive of the beauty of the countryside: their coming into the countryside cannot be avoided in the national interest and therefore care must be taken to minimise their destructive effects. The most serious cases arise with quarries or extensive open-cast workings such as those for iron ore; we deal separately with this problem in paragraph 189.

In the case of the second group, where deposits suitable for working are geographically widespread, areas which may be worked should be determined as far as possible nationally and, with the guidance of expert geological advice and in consultation with the industries concerned, should be incorporated in local planning schemes. In this way an adequate utilisation of the country's mineral resources will be assured whilst the spoliation of the countryside by the casual opening up of quarries will be prevented.

189. Another matter of great importance in connection with the extractive industries is that of the restoration of worked out land, including the "hill and dale" surface after the extraction of stratified iron ore deposits by open-cast working. We have received and heard a considerable amount of evidence on this question, and have had the advantage of reading the report of the Kennet Committee on Iron Ore Working. That Committee came to the conclusion that because of excessive cost, largely owing to suitable machinery not being then available, agricultural restoration was impracticable in the majority of cases and that the cheaper remedy of afforestation was the only practicable remedy to attempt. Since then considerable developments have been made in the design and use of earth-moving machinery and we do not think that there should now be any insuperable difficulty in undertaking the preparation of large areas of worked out land either for afforestation or agricultural purposes or, where required, for constructional development, after the war. We are clear that in principle it is wrong that any body or person should be allowed to work land and leave it in a derelict condition. We therefore recommend that legislation should be passed, imposing an obligation on all those who derive benefit from the working of land for minerals, to restore that land for agricultural or afforestation or other purposes (as may be directed by an appropriate authority) within a short specified period of time after the land has been worked out. This legislation should be passed as soon as the Government is satisfied that suitable machinery could be made available for the purpose and we consider that this technical matter should form the subject of immediate investigation by the Government Departments concerned.

In the past the principal persons who have derived benefit from the working of land for the extraction of minerals have been the landowners to whom royalty rents and compensation have been paid and the mining companies. In the case of land already taken over by mining companies where compensation has been or is to be paid to the landowner, it would clearly be wrong to place the whole financial burden of restoration on the mining company. Some appropriate apportionment of the cost will have to be made. In future however where land is leased or bought for the purpose of extracting minerals we think that it is right that the primary responsibility for restoring the surface should be placed on those working the minerals, leaving it to them to make suitable financial arrangements with the landowners or other persons concerned.

There is one further precaution which should be taken. We are impressed with the risk of exploratory or speculative mining ventures being started—often in beautiful hill scenery as in Wales—and then proving unremunerative. When this happens, the prospecting company is wound up leaving no assets, and there is no fund out of which restoration can be financed. To prevent such ventures leaving an aftermath of disfigurement, with no money to put it right, we think that leave to prospect and develop should be required; and also that a deposit or security to the satisfaction of the Ministry concerned, or the Local Authority to cover the cost of restoration should be made or given.

In the case of deep workings we recognise the difficulties due to subsidence and the consequent interference with surface drainage, and recommend that after expert advice from the Ministry of Agriculture adequate provision for the immediate or ultimate treatment where economically feasible of such land should be provided for.

By the very nature of their occurrence those minerals regarded as economically important by man and occurring in limited quantities in due course become "worked out" and a once prosperous mining area tends to become derelict. This may be seen in many of the old metalliferous mining

areas in Britain—in the old lead mining regions of the Pennines and in some of the tin areas of Cornwall—and the same stage has almost been reached in some of the coal mining areas of Britain. They can never again become prosperous mining areas and it is often difficult to justify the continuance of heavy industry based formerly on the local supply of fuel. In many such cases old spoil dumps and tip heaps have become partly or wholly overgrown; in other cases there are simply wide areas of desolation. Experiments in the Midlands, Lancashire and Wales have shown that by afforestation and the planting of suitable shrubs and other plants some of the most unsightly areas can be made some of the most aesthetically attractive. Some can be made economically productive of timber or even restored to agriculture. We recommend that the Central Planning Authority take steps to make a special investigation of derelict or decaying mining areas with a view to their more productive utilisation.

In addition to the actual extractive industries such as coal mining and iron ore mining, there are the industries based essentially thereon. Where the raw material is heavy or bulky in proportion to value, it is usually economic to process it on the spot: thus bricks are generally made where the brick clay is extracted; lime is burnt and cement made near where the limestone (including, of course, chalk) is quarried. Whilst high grade iron ores can be, and often are, sent elsewhere for the extraction of iron, with low grade ores it is obviously more economic to bring the fuel and flux as well as the labour to the ore field, hence the growth of Scunthorpe and Corby in the Jurassic iron ore belt of the Midlands.

Where dictated by economic considerations it is clear that industries thus based on minerals which it is in the national interest to work must be brought to them even into the heart of the countryside. Regulation and control must be directed towards the lay-out and form of the works and houses thereby needed and to subsequent restoration.

190. Immobile or Rooted Industries.—Whilst for the most part these are the "heavy" industries—iron and steel, shipbuilding, etc.—there are other industries which for one reason or another are relatively immobile.

Some industries are rooted because they are, as described in the last section, intimately related to the extractive industries and must be located accordingly.

Other industries must essentially be located near tidal water if they depend on imported raw materials of which inland transport costs are high—an example is oil refining. A similar situation is obviously essential for shipbuilding and is scarcely less important in the case of heavy industries serving the export market or distributing their products coastwise. Cement comes often into this category.

Still other industries have become rooted because of their long association with certain areas and their intricate organisation in large or interconnected units. In general the cotton and woollen industries belong to this group.

It is also to be noted that the heavy industries, and most immobile industries are organised in large units. In general, they are not likely to be scattered over the countryside: where they do come into country areas they will inevitably give rise to new industrial areas of considerable size whether measured in population or area. The growth of Billingham (heavy chemicals) in the last 25 years is an illustration: Corby has already been quoted.

It seems probable that a limited number of war-time factories, not only those devoted to heavy industries but also others now widely scattered in rural areas, will become the nuclei of new industrial areas: all such factories should be considered from the above point of view and those which are unsuitably situated relative to national interests as a whole eliminated after the war. The question of the disposal of these factories should not be left solely to the Service and Production Departments, who are at present

responsible for them under war conditions. We recommend, therefore, that the Central Planning Authority should, in conjunction with the other Departments primarily concerned, namely, the Service or Supply Departments, the Ministry of Agriculture and the Board of Trade, examine each case on its merits and decide what action would be appropriate in the particular circumstances of that factory. In general, we consider that, unless the site is suitable for the development of a small town or trading estate, the factory should not be continued in production, but should be pulled down and the land rendered available for other purposes. In a few cases an undertaking to the effect that this will be done has already been given. There may, however, be exceptional circumstances which would justify a different decision in some cases. We recommend that the review should begin as soon as possible so that there may be no undue delay after the war, when immediate decisions will be needed.

191. *Linked Industries*.—There are many industries which, considered by themselves, cannot be described either as "heavy" or as "rooted" industries but which because they serve the needs of other industries by supplying one or more component parts in a complex manufacturing sequence are intimately "linked" with a parent industry. Drop forging in the Birmingham area is an example: indeed, the varied metal industries of that area are to a large degree intimately linked in more than one direction. The manufacture of cardboard boxes, or metal containers, is often carried out by small, separate factories, but rarely at any distance from the manufacture of the goods which are to be packed.

Whilst it might be possible to divorce such "linked" industries from the factories they supply, it is generally agreed that such a step would be economically undesirable since the "linked" industries would thereby lose what are usually termed "external economies", e.g. the advantages of being near to technical advice, skilled labour, and constantly in close touch with the major firms for which they are working.

We have come to the conclusion that industries falling within this group must and should remain in the urban concentrations or trading estates and the question of their wide dispersal into country areas only arises to a limited extent. "Linked" industries are not necessarily linked to the heavy or rooted industries, but the concept of linkage precludes the idea that new industrial development where it is involved can remain small except in such cases as a simple linkage like the provision of containers for the packing of the goods of a neighbouring small factory.

192. *Mobile Industries*.—Many light industries can be located in a wide variety of sites and districts, and in this sense are "mobile" or, to use the American expression, "foot-loose". The mobility is relative rather than absolute, few industries can be located *anywhere* in the countryside and usually a new site is only chosen after a careful analysis by the industrialists concerned of the many factors involved. For the most part they are industries having all or some of the following characteristics, viz.:—electricity or gas used for power; transport costs, whether of raw materials or finished products, not representing a high proportion of total costs of manufacture; the goods produced being sold on a national basis or the value of raw materials being small in comparison with labour or manufacturing expenses. Some examples are boots and shoes, hosiery, clothing, cosmetics, plastics, furniture, wireless parts, scientific instruments, razor blades and sugar confectionery.

Although theoretically there may be a high degree of "mobility", in practice there is a marked tendency for such industries to be established in or near the outskirts of big population centres. This was one of the main causes of the growth of London, Birmingham and other main centres of the South Midlands and South of England in the decades preceding the war.

There are various reasons for this; one is the proximity of a large labour pool; another the nearness of a large market on which a new product can be tried out before attempting a nation-wide or international distribution; another is "centrality" or "nodality" relative to the main arteries of commerce or trade. In still other cases it is the need to be near the large wholesale or retail firms served so that urgent demands can be satisfied at short notice.

Economically many industries of this type could be sited in country areas without impairing their industrial efficiency. There are some already closely linked with the countryside by reason of their raw material. This is true of fruit and vegetable canning, jam making, beet-sugar making, flax processing and woodworking. At first sight it might seem that these industries would automatically seek rural locations but such is not the case: it may be regarded as preferable to bring the raw material to the town where labour is available. Some jam manufacturers for example prefer to be actually in London where they can secure overseas supplies (often of pulp) or take advantage of market gluts. Pickle and sauce manufacturers afford another example—here a location at a great export port is an added advantage.

In the event either of spontaneous or planned dispersal of industry from congested urban centres, it would be this class of industry which would be predominantly concerned.

193. Public Utility Undertakings.—Electricity, gas and water supply present rather a different problem. Their showrooms or retail distribution shops come into the same category as other shops serving the needs of rural inhabitants and as such should be sited in small towns. Their production and storage units—the generating stations, gas works and holders and water reservoirs—fall however into quite a different category. They are often large scale industrial units serving in some cases large cities many miles distant. Indeed in some cases they are not catering at all for the rural inhabitants in the surrounding countryside. Sometimes it is necessary for production and storage units to be sited in the open countryside or in villages, as for instance is the case where water reservoirs must be sited close to gathering grounds or when electrical generating stations are using water for their source of power. On other occasions it is advantageous to them that they should be sited in villages or in the open countryside in order to take advantage of the economies available through being adjacent to their raw material, as for instance electrical generating or gas plants using coal being sited at the pit head. In such cases it may at times be in the national interest for them to be so located even though they cause harm to agriculture or spoil the beauty of the surrounding countryside.

Industrial units of this type are mainly unsuitable in country areas because they introduce a note of incongruity. On examination this is often due to ill-considered details of buildings. On the other hand reservoirs and associated dams and buildings have introduced variety into otherwise rather dull country and have afforded the ineradicable loveliness associated with a sheet of water—which so often turns into a picture a composition which without the water is no picture. Not a few reservoirs with associated afforestation and other features are now numbered amongst the nation's "beauty-spots"—Lake Vyrnwy is an example. Even some electrical generating stations, architecturally pleasing, are far from ruining the beauties of the countryside. What clearly is wrong is the present exemption of statutory undertakings from planning control. We see no justification for treating public utility undertakings differently from other enterprises undertaking constructional development. We accordingly attach the greatest importance to our recommendation (see paragraphs 165—8) that all such undertakings should be subject to national planning control.

194. *Rural Trades and Crafts*.—These include those industries, for the most part old established and run on a family or small scale basis which serve, or are directly connected with, agriculture and forestry. Examples are afforded by blacksmiths, wheelwrights, saddlers, basket-makers, hurdle-makers and some types of furniture and chair-makers. We have referred elsewhere (paragraph 112) to the disappearance of the village craftsmen and the serious shortage which has been revealed by urgent war-time needs. Indeed, most of the rural trades and crafts were declining before the war as mass-produced goods from town factories appeared in every shop. Excellent work was, however, being done by the Rural Industries Bureau in the encouragement of rural craftsmanship. It was becoming clear that there was not only a demand for the products of actual hand-craftsmen as opposed to those of the factory—for example in wrought-iron work or hand-sewn leather goods—but also that there were new possibilities. For instance if the blacksmith is taught modern methods and provided with modern equipment he can prove invaluable in the maintenance and repair of agricultural implements, as indeed he is doing now under war conditions. We are aware of the difficulties which have been experienced in attempts to organise rural crafts, and regret the failure of many praiseworthy enterprises. Pride in skill and achievement is an estimable trait, and everything possible should be done to provide rural craftsmen with full opportunities to ply their trades. There is likely to be a growing demand for the distinctive handmade article, especially if it is of good quality and design. Whilst mass-produced goods have enabled the public to acquire many things which otherwise they could not have done, these goods are nevertheless standardized and this fact ought to stimulate a greater demand for handmade articles. Rural trades and crafts are essentially part of the old life of the villages and, if they can be made to pay, should continue to be sited in small towns and villages. In so far as they are producing handmade articles which can be stored, they afford just those opportunities for employment over short periods at slack seasons in agriculture which, as pointed out in paragraph 197, factory industries do not.

For all these reasons we recommend that the Women's Institutes, the Rural Industries Bureau, or other appropriate bodies, be afforded adequate resources for the further encouragement of rural crafts and that special attention be paid to the organisation of marketing.

We believe that much can be done to restore a pride in craftsmanship by the revival or creation of guilds of craftsmen (see paragraph 211) and we recommend that the appropriate bodies review the whole question of apprenticeship to such crafts.

195. *Trades providing for the Conveniences of Life*.—Under this descriptive title we include trades which, rather than serving directly the industries of agriculture or forestry or using their products, cater for the personal needs of the inhabitants of rural areas—the shops and inns of the village and, in modern times, the garages; their larger or more numerous counterparts in the small country towns together there with cafes, cinemas, hotels, laundries, etc. It is obvious that, if the needs of rural populations are to be adequately met, such trades or occupations must find a place in country areas in those locations, normally small towns and villages, which are most convenient for the rural communities.

196. *The Location of Factories in the Countryside*.—Whilst the evidence we have received has been to some extent contradictory, we have been impressed by the testimony of industrialists that the small factory is inconsistent with the trend of modern industrial organisation. To secure those economies essential if the commodity produced is to compete in costs and consequently in selling price with similar commodities produced elsewhere, a highly organised factory is essential in nearly all industries. This was stated to be the

case even in such industries as canning and jam making which might be thought suitable for establishment as small units in country areas. Conditions differ widely with different industries but fifty employees was mentioned in evidence as a rough average for the smallest size possible for a modern economic factory engaged in one of the light industries. Bearing in mind the serious, even disastrous, consequences likely to result when there is local dependence on only one factory which for some reason or another closes down or on several factories all in the same industry if that industry becomes depressed, it seems clear that every endeavour should be made to "balance" industries and for that purpose, wherever possible, to group diversified industries together. Four or five such factories suggest a minimum number of employees of some 200 or 300 representing, with dependents, perhaps eight hundred to a thousand people. Without tying ourselves to these figures, we would point out that when account is taken of the families and dependents of workers and of the workers with their families in servicing and retail supply industries essential to any centre of population, as well as of the other inhabitants, the resulting total of that population becomes considerable. The general conclusion from this reasoning is that no modern factory can be located in a village (the ordinary village having less than 1,500 inhabitants) without the village changing its character and becoming in fact a small town. On the other hand the small country town suggests itself as a suitable place for small industrial units.

Although both the present practice and the trend of development differ in different industries, in many industries the tendency is towards a horizontal factory lay-out whereby even a small factory uses a considerable area of land. This is an additional disadvantage in a village.

We carefully examined evidence from industrialists who had actually established industrial works in recent years (a) in the open countryside and (b) in or on the outskirts of villages. In the former case we noted examples where, apart from key men compelled to live on the spot, the workpeople preferred to live in the neighbouring town and to cycle out to their work, and the evidence, notably in the case of milk processing factories in the heart of the country, that the employers considered a site on the margin of a town would have been more suitable. We had evidence of the very successful establishment of factories in villages and of the gradual fusion of social life of the industrial and rural workers but, on closer examination, we found that the villages as a result were more correctly described as small towns with populations of 2,000 to 5,000 or more inhabitants.

197. Seasonal Employment.—Our Terms of Reference make specific reference to the possibility of seasonal and part-time employment in the country. In the oral examination of witnesses we pursued the question repeatedly without securing any satisfactory or definite results. Theoretically it should be possible to find industries in which the peak periods for employment alternate with peak periods of employment in agriculture and so permit of a more efficient use of a rural labour supply. There was general agreement as to the desirability of such dove-tailing but the difficulties were so great that we have not received details of any definite case of successful and continued operation of any such interchange.

In the first place the actual times of seasonal unemployment or "trough" periods in agriculture are determined mainly by natural factors and do not coincide with fixed dates on the calendar. In other words seed time and harvest vary from year to year according to the season's weather so that it is difficult to know in advance exactly when labour may be available. Further, whilst casual labour is needed in agriculture for brief periods for hoeing, weeding, fruit picking and potato harvesting, etc, the well organised

farm has employment for its main labour throughout the year since the agricultural labourer is a highly skilled man, able to turn his hand to a wide variety of jobs. Off seasons are devoted to maintenance work on the hedges, ditches, gates, fences and buildings of the farm. This observation is not true of all parts of the country—for example in East Anglia even the best organised farm could scarcely find employment throughout the year for labour essential in the harvest season and there is consequent winter unemployment.

In the second place it is essential to find an industry where the peak periods coincide with the trough periods of agriculture—broadly speaking industrial occupation is needed in the winter. Unfortunately so many industries suitable for location in the country have peak periods *coinciding* with the peak periods in agriculture. Examples are fruit and vegetable canning, jam making, milk processing, fish canning and curing. Some light industries, notably the clothing and boot and shoe industries, owing to the marked autumn and spring changes both in fashions and demand, have peak periods. Though they may seem artificial to the outsider they are well known to those in the trade, and unfortunately tend to coincide with peak periods in agriculture.

Presuming that industries can be found which would offer employment when the demand by agriculture for labour is at its lowest, there still remains a major difficulty. For economic working a factory must spread its overheads as evenly as possible over the year. If the factory closes for half the year output ceases but such expenses as rent and managerial costs continue and the running of such a factory is rendered uneconomic. Indeed the whole tendency of efficient factory organisation is to spread work as evenly as possible over the year.

It has been argued that light industries employing mainly women could be established to work throughout the year in rural areas and thus afford the women the advantages of earnings spread throughout the year, though the wages of their menfolk employed in agriculture may vary. It has been pointed out that countrywomen, quite apart from casual employment in fruit picking, etc. in the summer, are themselves very fully occupied in that season in work in their own homes and gardens and in the replenishment of their store cupboard for the winter—occupations unknown to many town housewives.

The difficulties arising from any attempt to interweave industrial and agricultural employment do not arise, or at least do not arise to the same extent where rural crafts are concerned. This is an important additional reason for the encouragement of the latter, which we have discussed in paragraph 194.

198. *Part-time Employment.*—The difficulties discussed in the last paragraph apply also to part-time employment, though the experience being gained during the war may render it possible to work out schemes.

Whilst we have failed to find, with the possible exception of beet-sugar, a modern industry which can be regulated to fit in with the seasonal requirements of labour in agriculture, we recommend that the appropriate bodies be asked to make a special study of the problem of both seasonal and part-time employment.

199. *Summary of Arguments and Conclusions.*—In the preceding paragraphs we have endeavoured to show that:—

- (a) the locations of the extractive and many heavy industries are determined by immutable physical conditions which may sometimes necessitate their coming to country areas and that planning should be directed towards details of site, buildings and disposal of waste;

(b) though many light industries are theoretically "mobile" they are in practice tied to a limited choice of localities; where they are brought into rural areas they should be located in existing or new small towns rather than in villages or the open countryside;

(c) rural trades and crafts or hand manufactures should on the other hand be located in villages and should be encouraged.

There remains the question, however, whether industry should be encouraged to assist in the establishment of new towns in what is at present the open country. Apart from the actual capital invested the nation has a moral obligation towards existing towns, for example in parts of the north where there are vacant or derelict industrial sites and an urban population, used to factory life, partially unemployed. By the creation of trading estates or by the clearing of suitable sites and in other ways, industry should be encouraged to go to these existing industrialised areas. In our view it would be wasteful and against the national interest if such industries should be encouraged to go into country areas before urban sites which should be developed have been taken up.

There may still be industries which desire new sites and either prefer country areas or a new town. We deal elsewhere with new garden cities and satellite towns and factors which should be considered in their siting, but it will be useful to summarise here both the good and bad effects which industrial development has upon the countryside according to the evidence we received based on pre-war trends. The possible harmful effects of larger scale developments include:—

- (i) Loss of productive agricultural land.
- (ii) Dislocation of farming and break-up of farm units.
- (iii) Harmful effects on agricultural production by noxious fumes and poisonous effluents.
- (iv) Attraction of labour, especially the younger workers, away from agriculture.
- (v) Social disturbance through contact between rural and urban mentalities.
- (vi) Spoilation of the beauty of the countryside by bad siting and bad design of buildings.

These effects resulted mainly from the congregation of industry on the outskirts of big cities. They are obviously likely to be magnified if industry is dispersed into the heart of country areas, and particularly if it were sited in villages or in the open countryside. A few of these effects, as for instance the attraction away of labour and social disturbances, may be neutralised or mitigated if the steps which we have recommended in Chapter VII are carried out.

On the other hand, other witnesses have urged the advantages of the establishment of industrial units in villages or the open countryside and suggest that such would help considerably in the revival of rural life and would therefore be in the national interest.

Their reasons for so thinking may be summarised as follows:—

- (i) Suitable industries would revive country life and bring town and country closer together.
- (ii) Suitable industries would provide employment for the wives and daughters of rural workers.
- (iii) Suitable industries would provide alternative avenues of future employment for young boys and girls.
- (iv) Suitable industries would provide seasonal work for agricultural workers in winter.

(v) Factories would bring in their wake an improvement in the physical and social standards of country areas, e.g., electricity, gas, water supply, educational and recreational facilities, etc.

By "suitable industries" most of those who expressed this view have meant those industries closely connected with agriculture, or forestry, or those relying particularly on female or juvenile labour, as, for instance, canning, jam making, agricultural implement manufacture, fertiliser production, furniture making, glove making or hosiery.

There are industries where noxious fumes and poisonous effluents are difficult to eliminate entirely and which are therefore capable of doing widespread harm to agriculture and the countryside. We consider that their location should be subject to most stringent control.

We have carefully considered the advantages which it is claimed the introduction of these industrial units into villages or the open countryside would bring. We believe that the maintenance of agriculture, together with the steps recommended in Chapter VII, will in themselves have the effect of reviving country life and bringing about an improvement in the physical and social standards of country areas.

The provision of alternative occupations for women and young people would be of advantage but certain dangers might be involved, as for instance, the attraction away from agriculture of the younger generation and the causing of discontent, at least amongst their menfolk, by attracting married women from their households for full-time paid employment. If industrial units were sited in existing or new small towns in country areas, they would rely less on labour from purely agricultural communities, and for those in the villages who so desired it would be possible to take up employment in the nearby town factories without living away from home.

Summarizing, we recommend that industry should be encouraged first to make use of vacant or derelict sites in towns and that where industries are brought into country areas they should be located in existing or new small towns and not in villages or the open country.

On balance we consider the introduction of carefully regulated industry in this way would be beneficial to the countryside.

CHAPTER X.

Housing and Planning in Country Areas.

Effect of Rebuilding of Towns on the Countryside—Green Belts—Garden Cities and Satellite Towns—Sporadic Building—Village Design—Village Sites—Modern Building Design.

200. We have already, in paragraphs 162 *et seq.*, laid stress on the evidence received about the serious inadequacy of rural housing. We set out there some recommendations with regard to detailed requirements in rural housing. We now deal with some of the broader aspects of building in the countryside.

201. Whilst we are not directly concerned with the rebuilding of towns which have been partly destroyed by enemy action, we are directly concerned when the rebuilding involves a lateral spread into the surrounding country or when it is proposed to re-settle the population displaced from existing towns in new satellite towns and villages or when it is proposed to create new settlements of the garden city type. We have taken note of the varied trends of thought which affect this position and we believe that varying tastes amongst the people of this country will result in a variety of new constructional development rather than in complete standardisation to any one type. We deal in order with some of the major possibilities and their probable effect on the problems of the countryside.

202. *The rebuilding of war-damaged cities and towns.*—The population density per acre of most English and Welsh towns is low when compared with continental standards. Our cities and towns are conspicuous because of the monotonous succession of streets of mean houses, many now deteriorated into slums, which are associated with the industrial revolution. Considerable numbers of large houses, in former residential districts, are now converted into flats, thus providing accommodation for two or more families. Thousands of people residing in cities have become accustomed to living in flats. During recent years there has been a growth in the number of flats provided for the working classes. It is possible that, at least in many places, this may continue. Construction, if along these lines, will result in an increased density of population and still make available open spaces, wider streets, playgrounds, areas for allotment gardens and light and air round dwellings. Should this occur, then the question of lateral spread becomes a less urgent one. The surrounding countryside will be mainly affected by the need for adequate road access to it.

Should the projected rebuilding contemplate a lowering of population density by the provision of separate houses with gardens, there will be the inevitable expansion of the total urban area and an overspill into the surrounding countryside. It will be the function of the planning authority to determine when the town has reached a maximum or an optimum size and should be limited by a zone of open land, where building and constructional development shall not be allowed (the so-called "green belt").† It will also be the function of the authority to determine where dormitory settlements should be built. But, as soon as there is a lateral expansion of any sort, the countryside surrounding the town is directly affected.

We accordingly recommend:—

- (i) that from the initiation of all town planning schemes involving the use of agricultural land there should be the closest collaboration with the Ministry of Agriculture and Fisheries as being the Ministry directly concerned with the utilisation of rural land;
- (ii) that every town planning scheme should be agreed by the Ministry of Agriculture before approval by the Central Planning Authority and that, in the event of disagreement, the machinery for the resolution of inter-departmental differences suggested in paragraph 221 should be utilised;
- (iii) that, as far as possible, tracts of good soil in the neighbourhood of towns and villages should be kept for the dual purpose of open spaces and market gardens and allotments and that accordingly allotment holders should have a security of tenure instead of the liability of being displaced by a housing scheme;

† *Green Belts.*—Although the term "green belt" is of comparatively recent introduction it seized the public imagination and has become not only widely used but still more widely misused. It is a townsman's expression which embodies a townsman's point of view and has come, unfortunately, to mean a belt of open land—of commons, woods and fields—to be "preserved" from building (or, as is often said, "sterilised") and so to serve as an encircling ring of green round the smoke and dirt of the town, perhaps with "wedges" of green penetrating towards the heart of the town itself. But open land cannot be "preserved" and such a concept is false. We conceive the green belt to be a tract of ordinary country, of varying width, round a town, and as a tract where the normal occupations of farming or forestry should be continued so that here, as elsewhere in rural land, the farmer is the normal custodian of the land. This is the reverse of "sterilisation": it is the preservation of fertility. But in the green belt there is a difference. The townsman himself is vitally concerned in the maintenance of the open character of the land and the belt will naturally include golf courses and open common land primarily for his use. On the other hand the farmer is compelled to recognise that the farm land is serving a dual purpose, and that there may be types of farming (e.g., sheep rearing) unsuitable for such an area, where sheer propinquity brings urban minded people into rural surroundings. But in essence the green belt is just a tract of the countryside.

(iv) that provision should be made similarly for town dwellers to keep pigs and poultry and in general to continue those rural occupations which have proved to have social, economic and educational advantages in time of war;

(v) that the area and delimitation of "green belts" should be agreed with the Ministry of Agriculture with the object of securing the conservation of good farm land within such belts so that it may be used for the supply of fresh market garden produce to the towns or, in other cases, of securing the reservation of woodland which can be both scenically attractive and economically productive—in other words the farmer and forester can well act as the custodians and managers of green belts;

(vi) that agricultural, soil and land classification surveys be made round each expanding urban area with the object of directing housing and other construction towards the less productive land and of preventing the disruption of economic farm units.

203. *Garden Cities and Satellite Towns.*—There is a widespread movement among town planners that new construction after the war shall take the form of well-designed towns with a spacious lay-out, where the areas devoted to housing are carefully sited in relation to the industrial sections and the shopping and community centres, where the houses are designed as integral units in a well-conceived street lay-out and have abundant garden space and where indeed there are all the facilities for a complete and satisfying life both for the individual and the community as a whole. These are the ideals which the founders of the garden city movement had in mind and which the garden cities, despite the erroneous views frequently held about them, have endeavoured to achieve. It is possible that some of the war-time factories in rural areas may form the nuclei of such new settlements; it may be that satellite towns to be built beyond the green belts of existing towns will be of this type. Their demand for rural land will be considerable and we are of the opinion that any proposed sites should be examined with the utmost care from both national and local standpoints.

We have pointed out in Part I that the amount of good farmland, and especially the amount of the best farmland, in England and Wales is very strictly limited, and we have noted that good land being well drained and relatively level is easily developed—that it is, in other words, also the best land, in the sense of being the easiest land to use, for constructional development.

Unless there are strong reasons to the contrary, new towns should not be sited on good agricultural land. We have examined carefully the view that the gardens, being intensively cultivated, of a garden suburb, provide more produce than if the whole area were farmed, but we are unable to accept this view. The comparison in the case of good land should be between the proportion of the gardens which is used in the growing of fruit and vegetables and the whole area if it were under intensive market gardening. Reliable figures of the proportion, after due allowance has been made for roads, foot-paths, actual house area, garden paths, lawns, flower beds, etc., of the total area used productively are not available, but in cases examined it is not above 25 per cent., and we take the view that once good agricultural land is taken for housing, it is of necessity lost to agriculture for ever, no matter how desperately it may be needed in the future for food production.

We accordingly recommend

(i) that new satellite towns, housing estates, garden cities and suburbs be sited wherever practicable away from the better farm land.

(ii) that in their siting due attention be paid to agricultural considerations.

(iii) that as in the case of the planning of existing towns the Ministry of Agriculture be consulted from the inception of the planning schemes.

204. *Sporadic Building in Villages and Rural Areas*.—Whether or not there is to be any considerable influx of industry and industrial population into country areas there must inevitably be a good deal of new building to replace the old outworn cottages, farm houses and farm buildings which are now such common features in most districts as well as much completely new housing. It is inevitable, too, that there will be new week-end cottages for townsmen, new hostels, holiday camps, camp schools and so on: new petrol-filling stations, garages, restaurants and hotels for the traveller and especially new houses and bungalows for the pensioner and the retired. And it is not unlikely that there will be a good deal of other building—as, for instance, of new hospitals and utilities of that kind which can function better in the country than they can in the town.

We have suggested in paragraph 163 that the farm worker and his family have far more chance of a happy social life and better opportunities of developing as self-reliant and responsible members of society if they live in a village. This is true of all dwellers in the countryside. It applies to the week-ending townsman, and to those people who now go to live in ribbon developments as well as to genuine countrymen. Though not all country dwellers can live in groups we consider that planning schemes should be so designed as to direct all new settlers into country towns and villages except where they can advance some decisive reason why they should be housed in the open countryside. Such a direction would not only benefit the settlers themselves, it would go a long way towards putting an end to that sporadic and scattered building which has done so much to spoil and suburbanise, and consequently (as many witnesses have pointed out to us) to affect seriously the agricultural production of large parts of the country during the last two or three decades, particularly those parts within the immediate sphere of influence of the towns. Closer building will also facilitate the provision of services.

205. *Village Design*.—In addition the country town or the village, in the English tradition at any rate, is a closely-knit group of buildings. It is well, indeed, that it should be so; that it should in its physically closely-knit character symbolise the socially co-operative basis of the group of people which it houses. We suggest that in the building of new small towns and villages, and in the remodelling of old towns and villages which we hope will be undertaken, this close-knit character should be maintained. The country towns should be as compact as the requirements of healthy living will permit. The villages should take the second of the characteristic forms into which, in paragraphs 36-37, we classified the traditional villages of England and Wales: i.e. they should be of the "enclosed" rather than of the "roadside" type. Thus the village buildings should be situated round a green or a series of greens in a pattern which is capable of natural expansion: the community buildings, the church, the school, the institutes, the inn, occupying important positions, with the houses ranged about them.

A village plan as well as a town plan should have a carefully ordered shape: and a village as well as a town may very well have some degree of formality. Certainly to attempt to recreate in new villages the irregularity and "quaintness" which are found in so many old ones is a mistaken policy. We strongly suggest that no attempt should be made to do this. Though we may learn from our old villages many *principles* of design that may properly and profitably be adapted for contemporary building, our modern villages should not attempt to imitate the old but should perform their modern functions in a frankly modern way. That we have nothing in the way of spoliation to fear

from this policy provided it is honestly and imaginatively carried out, is shown in architecturally formal planned villages which were built in the 18th century and which to-day sit as happily in the countryside as they must have done when first they were built.

Every new village and every extension to an old village as well as every town should be considered and planned as a unit and not as a collection of separate buildings. We consider that there is great need for the clear application of planning principles to village building. Village planning is by no means an easy art: it is full of subtleties concerning scale and character. We recommend that the services of the statutory panel of architects and planners (paragraph 162) should be available for all planning and construction in villages as well as in the open countryside.

206. New Village Sites.—The actual siting of a village or a town is as important as their plan-forms: indeed proper siting must always be the first consideration in the determination of any planned development. Many of the factors which originally controlled the siting of our existing villages have now ceased to be important, or will cease to be so if some of our proposals, as for instance the provision of a piped water supply to every village, are put into operation. But other new important factors have arisen and it is essential that due regard be paid to them. We regard it as most important, for example, that all new villages and country towns should be situated away from main traffic roads, though with easy access to them, and that all existing villages and country towns which have main traffic roads running through them should, as far as possible, be by-passed.

207. Modern Building Design.—New buildings should use to the full all the possibilities which new materials and new building techniques have made available. This, however, does not mean that no regard should be paid to the principle of designing a building in harmony with its surroundings. On the contrary we believe that the achievement of such a harmony is a cardinal requisite of all good design, though the harmony we have in mind arises out of a fundamental consideration of the building in its setting and not out of narrowly conservative or sentimental considerations.

We need not consider here any of the matters of detailed design upon which the success of a building at a close view depends. Those are questions of architectural composition, and with that we are not directly concerned. We feel that we must, however, make some brief reference at least to the principal considerations which affect a building's possibility of successful assimilation into its landscape. These considerations are the building's outline or silhouette, and the quality, colour and character of its materials.

A landscape, though itself a thing of curves and masses, of rounded hills, and, even where there are no hills, of rounded trees, can absorb into its form unrounded masses and straight lines so long as these are not too vertically insistent and so long as they are well secured within the surface of the landscape and can be regarded as a development upon that surface and not an interruption of it. An occasional strongly vertical element may sometimes, of course, by its very contrast, be highly successful, as, for instance, are the towers and spires of churches, particularly in a flat landscape. This avoidance of vertical emphasis, except for certain buildings, is particularly necessary in buildings erected against a sky-line. In an undulating country, it is comparatively easy to avoid building on the sky-line: buildings can, and generally should, be situated away from the sky-line ridges where they will dominate the surrounding country. But in level country it is only in the lee of a wood that the sky-line effect can be avoided, and it is particularly desirable there that a softness of outline, a horizontal emphasis, should be maintained. And of all sky-line effects to be avoided the chief is that which is created by the setting of identical blocks of houses at identical distances apart, such as

occurs in much modern housing. We consider that, as regards scenic effect at any rate, building in block formation is much to be preferred to building in scattered detached units.

On the question of the quality, colour and character of building materials in the countryside we have received much contradictory evidence. Many people who have the maintenance of the beauty of the countryside very much at heart sincerely believe that only buildings of "traditional" and "local" materials should be permitted to be erected in country places. While we have every sympathy with the desires which prompt such belief, tradition is not a fixed and final thing. If it is alive—and it is only worth anything when it is alive—it must be subject to growth and development. Any attempt to prevent the use of new materials and new types of design arising out of new building techniques based on those new materials, or arising merely out of changes and developments in human needs, is bound in the end to be futile; and if it were not it would mean the end of all architectural development whatsoever.

We are convinced that the proper and realistic way of directing building operations in the countryside so as to maintain, and even increase, rather than destroy amenity, is to require that buildings shall be in good material which is sympathetic in colour with the traditional colourings of the landscape in which it is situated. Thus wood, if it is properly handled, may be very successful in almost any landscape: brick that is carefully selected for colour and texture can be inoffensively used even in a stone country: and concrete, well handled and carefully considered in the matter of colour (which unfortunately it rarely is) may also be successful in almost any district. To say this is not in the least to suggest that there has been nothing wrong in the kind of building which has been going on in the last few decades—the use of glaring red brick in stone country and so on. It has in truth been disastrous. But we feel certain that the future of architecture does not lie in the easy direction of mere preservation and narrow conservatism. It lies in the imaginative use of new opportunities—and it is precisely these that we are now afforded, in building, by the new materials and new methods of construction which are available to us.

We accordingly look forward with confidence to the emergence of a general appreciation amongst both architects and town planners on the one hand, and the general public on the other, of the fusion of new designs with new materials into a harmonious whole with the old designs and the old materials.

CHAPTER XI.

Miscellaneous Constructional Development.

Aerodromes—Defence Works—Roads and Railways—Petrol Stations—Other Wayside Constructions—Advertisements—Cemeteries.

208. Apart from industry and housing there are various other forms of constructional development which have taken place and which may take place in country areas. We consider below the most important of these, some of which have had major effects in country areas.

209. *Aerodromes.*—Aerodromes have undoubtedly been one of the main forms of "other constructional development" in country areas, during the last few years. Unfortunately the requirement of flat, well-drained land for aerodromes has led to a very considerable loss of first class agricultural land. Owing to the vital necessity of adequate defence, strategic requirements have obviously had to take precedence, in the majority of cases, over those of food production. We have been informed, however, that where land has been acquired by the R.A.F. for non-operational purposes, every effort has

been made to avoid taking productive agricultural land. A system of consultation has been built up between the Air Ministry and the Ministry of Agriculture (to which we refer in Chapter V) and it has sometimes been possible, by means of this, to provide suitable alternative sites on less productive land even in the case of operational aerodromes. We also understand that with the war-time development of concrete runways the need for first class land has become less important; it was formerly essential to choose land on which sown grasses would grow well (i.e., good arable land), now poorer land is adequate and modern machinery renders levelling of sites relatively easy.

In war-time land required for vital operational purposes of this kind must obviously be taken, although we consider that wherever possible sites should be chosen which interfere in the least possible way with agriculture. We are, however, primarily concerned with the post-war period and it seems to us that it is possible that there will then be available all the Service aerodromes needed and indeed that it may well be possible to return some to civilian use.

If such a question of disposal does arise we do not think that the Air Ministry or the other Service Ministry involved should deal with the matter alone. As in the case of war factories (see Chapter IX) a number of other Departments are vitally concerned. The Air Ministry must obviously decide which aerodromes cannot from the Service point of view be properly released, but the question of the alternative use for the remainder should be settled by the Central Planning Authority in conjunction with the Departments concerned.

It appears to us that the two most useful ways in which such aerodromes could be used would be either for them to be returned to agriculture (possibly the concrete runways where they exist being used without being destroyed) or for them to be used as civil aerodromes. The utilisation of released aerodromes in one of these ways would have the additional advantage of their being readily re-adaptable for Service aerodromes if they should be needed as such at any time in the future.

In the unlikely event of further demands having to be made for Service aerodromes, we consider that consultation should, as at present, take place between the Air Ministry, the Ministry of Agriculture and any other Departments primarily concerned but that these consultations should be supervised and co-ordinated by the Central Planning Authority in the same way as all other demands for land. We hope also that if new Service aerodromes are needed it will be possible to avoid taking any further tracts of good agricultural land.

While the demand for further Service aerodromes may not be great after the war, there may well be an extensive demand for civil aerodromes, if, as seems likely, civil flying is greatly developed. We understand that in many cases it will not be possible to use former Service aerodromes for this purpose since they will be inappropriately sited. Civil aerodromes, just as much as roads, will form an essential part of local planning schemes of the future, and therefore their siting and their buildings should come under planning control in the same way as other constructional development. We hope also that with technical developments it will not, in fact, be found necessary to withdraw first class farm land for this purpose.

210. Defence Works.—As a result of the war vast numbers of defence works have been constructed all over the country. Often these have severely dislocated farming operations in the neighbourhood or have been very destructive of the beauty of the countryside. Except in so far as any of these are required as permanent defence works or other purposes, their removal should be regarded as one of the urgent tasks after the war. We recommend that the Central Planning Authority, in consultation with the Service and other Departments concerned, should, before the war ends, draw up plans for the removal of

these temporary defence works. As soon as may be practicable after the close of hostilities, complete removal should be carried out by the Ministry of Works on behalf of the Service Department concerned and the land made available for other purposes.

211. Roads and Railways.—Hitherto the planning of main roads and railways has remained separate from planning control and has not even been fully co-ordinated with town and country planning. We appreciate that the drawing up of lines for new roads and railways involves difficult technical problems of engineering and that for this reason it would be difficult, if not impracticable, to divorce the planning of them from the execution of the work. We consider however that in the past too much emphasis has been laid on the engineering aspect and not enough attention paid to the other considerations involved.

The building of new railways is not likely to be a big factor in the future, but roads form an integral part of town and country planning and cannot be divorced from it. Moreover, as we have pointed out in Part I, roads may cause considerable harm in country areas both to agriculture through the break-up of farm units and to the beauty of the countryside through inappropriate siting and construction.

We regard the present degree of co-ordination between Planning, Highway, and Agricultural Authorities as quite inadequate, and we recommend that the machinery of the Central Planning Authority be used to secure close collaboration from the start of any new scheme whether for town planning or for the construction of new roads. We have already expressed the opinion that the exemption of statutory undertakings from planning control is wrong. That opinion applies also to railways. In common with all other forms of constructional development, railways should be made subject to national planning.

While we are not directly concerned with highway policy, we wish to place on record our opinion that increasing provision must be made for fast road traffic. We note that some of the newer main roads with dual carriage ways, grass verges, cycle tracks and neat hedges or borders of the American parkway type show what satisfactory results can be achieved with new roads, though other trunk roads of recent construction are unfortunately examples of most that is bad. We would prefer to see bold planning for a number of new trunk highways, even at the expense of using agricultural land and altering the character of the land through which they pass, rather than a continuance of piecemeal widening of existing roads which ruins them aesthetically and gives a final result far from satisfactory even to road users. With a co-ordinated system of Class A roads, some limitation of traffic on by-roads might be considered. The development of new ports (e.g., on the west coast) and new industrial areas may necessitate the construction of new trunk roads whilst other main roads may be needed for the opening up of hitherto little-used areas for recreational purposes. It is in this connection that we desire to see care, thought and boldness in planning. As we have already said in paragraph 296 we consider that the passage of main roads through villages and small country towns not only ruins the villages and towns concerned and has a disastrous effect upon the life in them, but is also dangerous to the road traffic itself. Wherever possible therefore we recommend that new trunk roads should be planned to avoid villages and small country towns, and, in the case of existing main roads which pass through villages and small country towns, by-passes should be constructed.

We consider that the complete elimination of railway level crossings on important roads is long overdue, and that the construction of bridges is very important. Many old railway bridges form serious obstacles on roads as well as danger spots and should be rebuilt.

We received interesting evidence concerning the partial reconstruction or widening of old road bridges using the local material and reviving the stonemason's craft to good effect. In Herefordshire, for example, the fostering of pride in achievement through the revival of craftsmen's guilds seems wholly praiseworthy. At the same time in other circumstances, especially on new main roads, we are equally appreciative of the fine work of modern bridge designers and builders.

212. Petrol Stations.—With the development of motor transport, petrol stations on country roads as well as in towns and villages have become a necessity and will remain so. But their construction and the garages often associated with them, are frequently unsightly and a source of disfigurement in the countryside. This has occurred in spite of the fact that control is possible under bye-laws pursuant to the Petroleum (Consolidation) Act, 1928, a method which has been adopted by most of the local authorities concerned. Control is also possible under Town and Country planning schemes, and it has been the practice in the past to repeal bye-law control where a planning scheme has become operative. We are of opinion that the powers so granted to authorities have been insufficiently used. We believe it to be preferable that regulation should be exercised under planning powers rather than by a separate system of bye-laws, and we recommend therefore that the law be amended accordingly.

We also recommend, as it is not only a local consideration, that this subject be specially considered by the Central Planning Authority in conjunction with the Ministry of Transport, and that directions be issued by the Central Planning Authority for observance by the local planning authorities.

It is also our opinion that appearance should be considerably improved, and that existing stations which fall below approved standards to be determined should comply therewith within a specified period of time or cease to trade.

We are convinced that satisfactory improvements in appearance could be obtained by the expenditure of relatively small sums of money. The provision of small lawns and beds of shrubs and flowers would be pleasing and cost little. The proper siting of stations is extremely important and all new ones should have a "pull in".

213. Other Wayside Construction.—It is recognised that *transport cafés* provide a necessary and valuable service to commercial vehicle drivers. Our observations and recommendations regarding petrol stations in the last paragraph are equally applicable to transport cafés. In our opinion the buildings can still be economical yet attractive in design and finish.

Motoring has caused a considerable expansion in the numbers of *wayside cafés* and *restaurants* and we see no reason why there should not be further reasonable development. The question of siting should be carefully supervised and a higher standard of building construction should be required than for transport cafés. We recommend that control of this development should be exercised by local planning authorities, subject to general directions given them by the Central Planning Authority and, further, that such businesses when established in the open countryside should not be permitted to function as night clubs. All wayside cafés and restaurants should provide a car park.

Many bus companies already provide *shelters* at main stopping points. This provision should be general and we call attention to the neat yet effective designs of the shelters erected in the country areas served by the London Passenger Transport Board.

We regard the widest possible extension of telephone services in country areas as vitally important. We are aware of the differing views which are

held concerning the design and colour of *telephone booths* and in this case we see no objection to the distinctive and helpful splash of colour by which these can be readily seen.

214. *Advertisements*.—Another great cause of disfigurement in country areas, especially in the open country, is advertising. Hoardings and signs have been erected in great numbers adjacent to roads and railways whilst many are visible from rivers and lakes and occasionally near the coast. Railway bridges are frequently thus misused for display purposes. Even villages are defaced by advertisements on gables of houses and particularly end walls looking down upon the street. Even when advertisements are in themselves pleasant and well designed they are often completely inappropriate in their setting and often spoil attractive views. The present method of control, whether by bye-laws made under the Advertisement Regulation Acts 1907 and 1925, or under planning powers provided by Section 47 of the Town and Country Planning Act 1932, has in our opinion proved to be quite inadequate. We believe that such advertising could be most appropriately regulated by means of a licensing system exercised by the local planning authorities in accordance with general principles to be laid down by the Central Planning Authority. Amenity is a national as well as a local interest.

We have considered evidence in regard to these matters and are convinced of the necessity for imposing strict control upon the use of land and buildings for such purposes. It has been pointed out to us that poster and sign advertisements are expressly designed to arrest attention and that irrespective of the artistic quality of the displays they spoil the rural picture by breaking into its continuity with a sudden misplaced colour interruption. The beauty of the countryside should be preserved for the enjoyment of all. In our view it is aesthetically and morally an offence that relatively small sections of the community should be able to exploit this common possession. We recognise that certain signs erected quite near to towns do serve a useful public service. For example, a traveller may desire to have knowledge of an hotel or restaurant, or where he can find a repair depot for his motor vehicle, or again, what entertainments are provided. In our view no widespread advertisements of the nature being considered should be permissible except under licence granted by the local planning authority and we recommend that the law be amended accordingly.

In regard to existing hoardings, signs and advertisements we recommend that within a reasonably short time limit the erections should be removed and advertisements obliterated unless the local planning authority grants a licence for continuance.

We also recommend that the Central Planning Authority should give special consideration to the prevention of all such advertising in the case of places of special historic or aesthetic importance.

We agree that some exception should be made to meet legitimate claims of businesses established in country areas. They are clearly entitled to inform the public on or adjacent to their premises of the goods sold or services rendered. Businesses engaged in providing local entertainments should enjoy sufficient facilities. But even these signs or advertisements should be subject to a system of local licensing. In this connection we recommend that the design of hoardings and signs should not be unduly standardised. Diversity of design, if good, should be encouraged.

215. *Cemeteries*.—In the aggregate, cemeteries occupy considerable tracts of land and it is generally accepted that they are not in themselves aesthetically attractive. Our attention has been drawn to cases where a wealthy local authority looking to future needs has bought land outside its own boundaries to provide a cemetery to the considerable detriment of the locality concerned.

We recommend that special consideration be given by the Central Planning Authority to the question of cemeteries, bearing in mind the conservation of land and the probability of development of attractive park-like areas with the monuments collected together in memorial chapels.

PART III. PLANNING AND DEVELOPMENT: MACHINERY AND PROCEDURE.

CHAPTER XII.

The Central Planning Authority.

Machinery.

216. We have assumed that the policy of the Government involves the establishment of a Central Planning Authority. Our terms of reference do not include the consideration and recommendation of the exact form such government machinery should take, but our deep conviction of the urgency of the problems we have studied impels us to put forward certain suggestions in the hope that they may be helpful in stimulating public opinion and giving support to the growing demand that the legislation constituting the complete Central Planning Authority be passed now before the war is over. We repeat, however, that our recommendations in Part II do not depend on the adoption of this specific form of government machinery. Once the machinery is in being, research, thought and organisation can proceed and when the time comes for action the State will not be found unprepared.

217. We consider it essential to distinguish between *planning* and *development*—between the formulation of a national plan and its execution. The Government has announced that it will formulate and execute national and positive policies of urban and rural development. The formulation of these policies will necessarily touch on many spheres, e.g., industry, labour, agriculture, housing, transport, highways, public utilities, health and recreational services, amenities and finance. The actual development will in part be carried out by the Central Government itself, in part by local authorities and statutory bodies and in part by private developers. Unless the various types and units of development are co-ordinated and regulated and, where necessary, prohibited, by suitable machinery, the best use of the land of the country will not be attained. This is the true function of “planning”. In this sense planning should be the concern of the planning body within the Government, development the concern of the separate Ministries which have already the executive powers needed, or of such Ministries as may be charged with new executive duties, and of the appropriate local authorities. By “development” we understand *all* changes in the use of land, outside variations in agricultural usage—including afforestation.

218. We visualise the governmental machinery for the formulation and execution of national planning as consisting of four parts:—

- (a) A standing Committee of the Ministers concerned, under the chairmanship of a non-departmental Minister of Cabinet rank.
- (b) Government Departments concerned with development.
- (c) A Central Planning Commission.
- (d) Such *ad hoc* bodies as may be needed to carry out functions not already covered by existing Ministries or other authorities or bodies.

219. The *non-departmental Minister*, who in this capacity will be the “Minister of National Planning” or the “Minister of National Organisation”, should be a Minister of Cabinet rank, free from departmental responsibilities. The execution of national planning will involve the use of land, and it is essential that the Minister should be in the position of a

neutral and not himself the head of a department of State which is or may be itself concerned with the use and development of land. The Minister should be assisted by a small expert staff.

220. *Government Departments* concerned with development are included because they will be the executive bodies within the spheres assigned to them by Parliament.

221. *The Central Planning Commission* should consist of a full-time independent paid Chairman, who should be given what we venture to call ministerial status,* and a number of part-time or full-time commissioners, chosen on the basis of their special qualifications and knowledge as individuals of proved ability in their own spheres. The staff of the Commission should consist of Civil Service personnel, chosen as far as possible with a knowledge of the internal organisation of the several Departments with which the Commission will be in contact, and other persons, including some specialists, chosen for their knowledge of particular subjects and the prosecution of research.

Outside London the Commission should be represented by Local Officers, who should as far as possible settle all matters of local importance without, however, denying the right of access to the Commission itself.

The duties of the Commission should include, *inter alia*:—

(a) unified research and enquiry—the collection and correlation of information and the direction of research in connection therewith;

(b) the formulation of national planning principles in accordance with directions received from the Minister in his capacity as Chairman of the Committee of Ministers, and the translation of national policy into concrete terms of national planning;

(c) the consideration of directions received from Departmental Ministers and the reporting thereon;

(d) the formulation and communication of general principles for the guidance of local planning authorities and the initiation, either direct or through the local officers, of schemes of national importance;

(e) the approval or disapproval of plans submitted by local planning authorities and decisions thereon in accordance with Government policy.

It is important to recognise that the function of the Commission is a continuing one, thus making it possible to benefit from the accumulation of knowledge and experience; its task is continuous national planning and not the formulation of a single fixed plan, for it is essential that planning should be flexible and capable of modification to meet changing needs.

It is anticipated that the Commission will maintain regular and close contact with all departments of State and statutory bodies concerned with the use of land, with a view to avoiding clashes of interests, and only when rival claims cannot be settled in discussion with the Commission as an impartial body would the matter be referred for decision to the standing Committee of Ministers, as foreshadowed by the statement in both Houses of Parliament on 11th February, 1942, or failing that to the Cabinet.

Much of the work of the Commission will thus be advisory: it will advise the Minister on matters affecting the formulation of national planning policy, and it will advise Government Departments, statutory undertakings, local authorities, and, where necessary, individuals, concerned with the use of land or its development. There should be a statutory obligation on all departmental ministries to afford all requisite information to the Commission, and to consult with it and to consider its advice.

* By this phrase we mean a right of direct access to Ministers, and equality of status with them in certain respects.

Reports of the Commission should be laid on the table of each House of Parliament by the Minister.

The extension of planning will inevitably involve some increase in interference with private interests. A report from the Commission on the effect of public projects on private interests is likely to be more acceptable than if it came from a Department of State. The Commission will thus operate as a useful buffer between private interests and public authority.

222. Executive Authorities.—It is recognised that there may be exceptional cases where the policy of the Minister of National Planning may require executive action in which case bodies with executive powers should be set up for the purpose. A National Parks Authority may be such a case, unless the control of National Parks is undertaken by an existing Ministry.

223. Local Planning.—For the success of national planning, we consider that it is essential to maintain local initiative and enterprise and that, subject to the general guidance to be afforded by the directions of the Commission by which national policy will be interpreted, local authorities will continue to exercise their functions as planning authorities. They will, however, no longer be acting without guidance when initiating schemes; and it will no longer be possible for individual local authorities to refuse to co-operate in planning schemes. Reviewing the work which has been carried out under the Town and Country Planning Acts, we consider that fundamental changes which are needed include the following:—

(a) local planning must be compulsory and not permissive, so that the whole country may be covered and all development come under review:

(b) normally the primary local planning unit should be the county, or the county borough and its surrounding area, or a combination of local government units comparable in area, resources or importance with a county. In any case the local planning authority should be the same authority or combination of authorities as executes the principal local government functions involving the use of land. Within this framework the extremely important functions will devolve on the smaller local authorities of affording the county planning authorities the benefit of their local knowledge in the formulation of plans, and the county authorities must consult the district councils accordingly; whilst in due course the responsibility for the execution of works within the approved scheme may fall on the district councils:

(c) local planning authorities must employ qualified personnel;

(d) consultation between neighbouring planning authorities must be compulsory;

(e) local planning authorities should be freed from the restrictions in the zoning of agricultural land due to liability for compensation under which they have laboured in the past;

(f) where local planning authorities are carrying out their assigned part in a national plan, the expense should not fall on their own local financial resources, but, with this exception, planning control and development should normally be initiated and carried out by the authority or authorities liable to bear the expenditure;

(g) when approved a local planning scheme should be a complete code of enactments affecting both the development of the land and the functions of the statutory authorities within the area of the scheme.

It will be noticed that whereas for the purpose of the Central Planning Authority we consider it essential to separate planning from development, in local planning we recognise that such separation is wholly impracticable and that the same authority must be entrusted with both functions.

The necessary legislation to give effect to these proposals should be put in hand at once so that the machinery is in being and ready to function as soon as the conditions of war and peace render it desirable.

224. Regional Organisation.—The task of the Central Planning Authority is essentially to secure a balance in the national interests regarding the utilisation of land. The general principles will be enunciated from the centre. In order to obviate delays, difficult to avoid if all questions have to be referred to the centre, we consider it essential that the Commission should be represented by regional officers able to make available immediately to planning authorities all information in the possession of the Commission which they may need. The existence of these officers will not of course preclude the right of access from local authorities to the Commission itself.

Just as it will be the function of the Commission itself to preserve a balance between the needs of town and country, and so to plan the whole country that the optimum use is found for every type of land, so we conceive there is a similar need in the different parts of England and Wales and in this regard we see the advantages of a regional organisation. Apart from the Civil Defence Regions now used for a variety of purposes there is in fact such an organisation in being for many of the older Ministries. We consider great advantages would accrue from the use as far as possible of the same regions with the same centres for all purposes and that local representatives of the Commission to which we have referred would be appointed to each such region. Such representatives should be possessed of special local knowledge and we consider that they would therefore be equally useful to both the Commission and the local authorities. Such representatives might well be assisted by local advisory committees.

The regions themselves, embracing essentially the most varied types of land and in which great urban concentrations counterbalance thinly peopled rural sections, do for the most part epitomise in miniature the essential national problems. The Commissioners themselves, or Assistant Commissioners under them, would maintain close personal contact with the regional centres, and thus secure that the national viewpoint was interpreted also in the regions.

225. Wales.—We heard evidence from Wales and have considered it with care. There is no doubt that some special considerations apply to Wales, not wholly limited to the difference in language and cultural background, but we do not think that it would be to the advantage of Wales to have a national organisation for planning wholly separate from that of England. Between Wales and the bordering English counties there exists a close connection in many directions and activities. In the south these ties will be strengthened when the new road tunnel under the Severn, which we regard as an urgently needed improvement, is an accomplished fact. Similarly in the north no good regional planning could ignore the ties which already exist between North Wales and the neighbouring English counties of Cheshire and Lancashire, where there is a reciprocal appreciation of the special characteristics of contrasted areas—where for example the people of Liverpool look to the mountains of North Wales for bodily and mental refreshment, as the inhabitants of North Wales look to the University of Liverpool as well as to their own University Colleges for their educational and intellectual contacts. Economically there are equally close ties between such neighbouring counties as for example Montgomery and Shropshire or Brecon and Hereford.

For these and other reasons we are convinced that Wales should form with England one integral whole for planning purposes. None the less Wales has its special problems, of which account should be taken in two ways. First there should be a Welsh department of the Commission specially concerned with watching over Welsh matters and presided over by a Welsh Commissioner.

Secondly, the regional organisation of the Commission should be carefully adapted to meet and satisfy Welsh needs.

226. Before putting forward these suggestions we have studied the recommendations of Lord Haldane's Committee on the Machinery of Government and we have noted that it is apparent that the pre-war functions and procedure of Cabinet Government are changing and evolving to meet present day needs and that our proposals are not incompatible with these changes.

The Minority Report of the Royal Commission recommended the establishment of a Ministry of Planning with certain powers and functions concentrated in one department. We consider however that in the altered circumstances of to-day this machinery is inappropriate.

In making these suggestions we are mindful of the considerable parallel afforded by the War Damage Commission, where the responsible Minister is the Chancellor of the Exchequer and where the Commission's relations to the several executive Government Departments are comparable with those we envisage for the National Planning Commission and where the regional organisation with its delegated powers is also comparable to that proposed for national planning. We are convinced that it is impossible to separate from such Ministries as Agriculture, Health, Education, War Transport and the Service Ministries those of their duties which refer to future progress and for which they are responsible to Parliament—in other words that it is impossible to visualise a Central Planning Authority taking over the execution of planning proposals or any other form of development in any of those spheres which are the direct concern of existing Ministries.

We recognise that our advice in regard to the constitution of the Central Planning Authority will involve a transfer from the Ministry of Works and Planning, as constituted under the Act just passed, of all planning functions in order to separate them from the development functions of that Ministry. Our proposals also involve the review of all local planning schemes actually in operation or awaiting approval.

CHAPTER XIII.

Procedure.

227. *The Importance of Procedure.*—Our terms of reference call upon us to consider the conditions which should govern constructional development in country areas so that it shall be consistent with the maintenance of agriculture and not prejudice unnecessarily the beauty of the countryside or interfere with the well-being of rural communities. The question will always be in the end the right utilisation of land. In Part II of this Report we have made a large number of recommendations and suggestions regarding the use of land and in the preceding chapter in this part we have described in outline what we believe to be the best organisation, central and local, for ensuring its right use. That organisation is intended to operate continuously, to act as far as possible in prevention rather than cure, and to act expeditiously. The problem which has to be solved in any instance is whether or not it would be in the national interest to change the existing use of a particular piece of land. The considerations which must go to the making of this decision must necessarily be many and varied, as for instance economic, geographic, industrial, agricultural, aesthetic, strategic, social and even international. Such considerations are matters of national policy which can only be decided by the Government of the day, and they go far wider than the mere question of whether the type of land comprised in a particular site is more suitable for one purpose than another. For this reason there must be general principles of policy laid down by the Government.

228. National Land Planning.—As indicated in the last chapter, we envisage that local planning authorities (whether existing or new planning authorities) must continue in large measure to formulate and administer town and country planning schemes under the direction and guidance of the Central Planning Authority.* Provided the planning powers of local authorities are sufficiently strengthened to enable them to plan effectively, and provided also that the Central Planning Authority has the necessary power to direct, supervise and guide those authorities, it should be possible to ensure the best utilisation in the national interest of most rural land.

Apart from direction, supervision and guidance however we consider that direct national action on broad lines will be required by the Central Planning Authority without waiting for the formulation and submission of planning schemes by local planning authorities.

The work of determining the main types of land along the lines used by the Land Utilisation Survey, and mentioned above in paragraph 15 is part of the research which should be organised by or on behalf of the Central Planning Authority.

229. National Zoning.—The proposal whereby national policy might be interpreted locally by a national classification or zoning of all land throughout the country for different uses has at first sight obvious attractions. We have come to the conclusion however that the universal application of this method would be impracticable. It is impossible to lay down for all time or even for any considerable period a national plan in the sense of a map demarcating the uses to which land is to be put in different areas. In the first place the considerations involved are constantly changing and decisions as to the best use of land in the national interest at any given time must vary also. A national plan must be a continuous and flexible application of government policy. Secondly, the soil, quality of the land and other physical conditions of this country vary so considerably within such small areas that with a few exceptions it is difficult to demarcate large land areas according to geographical considerations; even if these were the only considerations involved, which as we have pointed out, they are not. Moreover, as an essential guide there is no complete soil survey of this country. Thirdly, national considerations cannot alone determine land use; local considerations must also be taken into account although when they conflict with national policy they must naturally give way.

We have therefore come to the conclusion that the best procedure for controlling land use in country areas is a combination of the "individual case method" and the broad national land classification method. In essence this means a procedure very similar to that adopted under the present Town and Country Planning Act of 1932, but considerably strengthened both locally and by the superimposition of national planning. The procedure would mean the national delimitation of certain land areas; the local zoning of land similar to that adopted in present town and country planning schemes; and the consideration of individual cases in certain zones where such a course appeared justified.

230. National Forest Zones.—The principle of demarcating on a national basis areas primarily devoted to one major land use has already been established in the case of forest land. Nearly all our major forest areas are now either owned or controlled by the Forestry Commission and a total area in England and Wales of over 600,000 acres has thus been set aside for the purpose, where suitable, of the growing of trees. The fact that a forest takes anything from 60 to 120 or more years to mature makes inevitable a long-

* In this chapter we again use the general term "Central Planning Authority" for reasons explained in paragraph 156.

term policy so far as this type of land use is concerned; it is eminently desirable that such a continuing policy be applied to other types of land use.

231. *National Recreational Zones: Preservation of Beauty.*—Similarly there exist certain large areas in the country which are of exceptional natural beauty and scenic interest and which should be preserved for the enjoyment of the whole nation; as for instance, Snowdonia, the Lake District, Dovedale, Dartmoor, the Pembrokeshire coast, or even the coast as a whole. We have already recommended that National Parks should be created and that a National Parks Authority should be set up. It is suggested that the Central Planning Authority, after the necessary consultation, should have power to delimit *nationally* such areas as "National Parks". Once "National Parks" have been determined we consider that the National Parks Authority should become the *ad hoc* local planning authority for them for all purposes and they should thereupon be excluded from the scope of any town and country planning schemes formulated by the local planning authorities into whose areas they would otherwise have fallen.

232. *Land Planning to take Account of all Considerations.*—We have pointed out that one of the major difficulties of the Town and Country Planning Act of 1932 is that it wholly ignored agriculture. When one considers that in almost any town and country planning scheme agricultural land is involved the absurdity of the present position needs no stressing. We recommend therefore that in future *all* considerations affecting land use should be taken into account in land planning and we consider that in country areas one of the most important of these must be the agricultural aspect. The Government has already recognised this. It has done so in our terms of reference which call upon us to consider "the conditions which should govern constructional development in country areas *consistently with the maintenance of agriculture*". It has also been stated that the Government "will seek to avoid the diversion of productive agricultural land to other purposes if there is unproductive or less productive land that could reasonably be used for those purposes". In the light of these statements and of our terms of reference, and in view also of the importance which we attach to a prosperous countryside and the maintenance of agriculture, we recommend that in planning rural land particular importance should be attached to agricultural considerations.

233. *The Onus of Proof.*—Land which is included in one of the categories of good land should not be alienated from its present use unless it can be clearly shown that it is on balance in the national interest that the change should be made. The same applies when the question relates to land which, though of indifferent quality, may be an essential part of a well-balanced farming unit. We attach real importance to the *onus of proof*, whether a decision is being reached in a matter of wide national importance, or in a purely local case. It is not merely that agriculture is in possession, actually or potentially, and that possession of itself puts the burden on the applicant who seeks to make the change, and, in the case of building, to bring to an end for ever the present form of utilisation. It is rather the method of approach to the problem. Where the land is of a good agricultural quality and there is no dominant reason why there should be constructional development, the task of the Authority is simple—its answer will be "No!" But in the case of some of the intermediate qualities of land, especially where *pros* and *cons* are at all evenly balanced, or other sites are offered to the applicant as alternatives (and it is not easy to gauge their suitability in all such cases) it would be of very general assistance to all persons likely to want sites for construction, as well as to the owner of the agricultural land, and the Minister

of Agriculture himself, if it were common knowledge that agricultural sites would not be handed over unless a clear case of a national advantage was made out.

When this point of proof is thought out in terms of the machinery we have proposed, we believe that it will be seen clearly how useful in practice our onus of proof rule is likely to be; but in any case we regard it as a matter of justice to the nation in any system for handing over agricultural land for development, that the applicant should be obliged to make out a good and clear case, in other words that the onus of proof rule should apply to all agricultural and forestal land. Whilst thus insisting on the practical value of the onus of proof, we would at the same time point out that no inconvenience from it should result to applicants for leave to utilise land for development because, in the great majority of cases, the Central Planning Authority and its regional representatives will be in possession of so much detailed information almost everywhere as a result of research work and daily increasing experience that it will be possible to give definite answers without delay.

234. *Interim Development.*—During the “interim period” between the decision to undertake a town and country planning scheme and the time when it is finally approved, it should be made obligatory to obtain the consent of the local planning authority before any building or other constructional development is allowed to take place. For this purpose the new legislation should provide that every local authority which has not already done so shall be deemed to have passed a resolution to undertake a town and country planning scheme as from 31st March, 1939. Before granting such consent the local planning authority should be under an obligation to refer all such cases to the Regional Officer of the Central Planning Authority, in order to ensure that the granting of consent accords with the national interest. The Regional Officer concerned should have power, after consulting the Regional Officers of other Departments concerned to veto the proposed consent, subject to the local planning authority or the Regional Officers of any other Government Department concerned having the right to require the case to be referred to the Central Planning Authority for a final decision.

235. *Consents and Appeals.*—In order to secure the continuing regulation as regards siting and design, consent should be required from the local planning authority in respect of each individual development proposal or building both in the “interim period” (as it now is) and after the passing of the planning scheme for the area. No effective control over siting and appearance is achieved by mere zoning unless continuously followed up by supervision of actual development.

Hitherto a right of appeal has been given to the aggrieved applicant in the case of a refusal of consent by the authority, but none has been given to the public, equally aggrieved, where a consent has been improperly given. We consider that there should be equal right of appeal against consents as against refusals. Consideration as to who should qualify as appellants is needed.

236. *Control and Ownership.*—Throughout this Report our emphasis has been on the importance of an adequate control over the development of land. We are aware that one method of obtaining control is by the purchase of the land; but we consider it important to emphasise that the changes we recommend are not contingent on the ownership of the land by the State or by public authorities: they are contingent upon adequate powers of control and regulation. A change from private to public ownership would still leave the necessity for the planning and development which we have recommended. Because State acquisition of land is only a step along one particular road towards the achievement of the objects we have in mind, we have not considered it within our terms of reference to express any opinion on its

desirability or otherwise. After questioning those witnesses who did urge the necessity of State ownership of land, we are of opinion that the reforms they suggest can be achieved by adequate *control* of land.

We recommend that the power of compulsory acquisition of agricultural land by the State be exercised where required in the interests of national planning, or for achieving that high degree of permanent efficiency in our agriculture which will affect so vitally the very essence of the problem set before us in our Terms of Reference. That problem is to advise on the principles to be applied by the deciding authority upon the issue arising in regard to any particular piece of agricultural land as to whether it is or is not, on balance, in the national interest that it should be given up to constructional development; and the view of the authority must be directly affected by the degree of efficiency attributable to the agricultural industry as a whole. Much progress has been achieved by the Minister of Agriculture during the war but much more will be attainable in the years after the war, if he is armed with the right powers: and we are convinced that the power of compulsory acquisition is one and the agricultural evidence we have received supports us strongly."

237. *Acquisition of Undeveloped Land Rights*.—We have noted this as one method of securing the necessary control over land development, but in view of the forthcoming report of Mr. Justice Uthwatt's Committee, we express no opinion on it.

238. *Registration of Title*.—We recommend that registration of title should be made compulsory over the whole of England and Wales.

We recognise that the extension of compulsory registration of title will, for reasons of staff and administration, take some time, but it is important that it should be completed within five years.

239. *The Ordnance Survey*.—In all our recommendations we recognise the extreme importance of our national maps being up-to-date as well as accurate (as they already are), and if the funds available to the Ordnance Survey are inadequate to secure a high degree in efficiency in this regard we recommend that the Government grant be reconsidered accordingly. We recommend that the maps on the scale of 1:25,000 (the new 2½ inches to the mile maps) be made available for all planning purposes. These maps show practically all the detail recorded on the maps on the scale of six inches to one mile, (from which they have been reduced) and have the advantage that each sheet covers a larger tract of country, thus enabling a more general conspectus of the position to be made, whilst only some 1,200 sheets are needed to cover the whole country instead of ten times that number. They are at present prepared only for Service use.

240. *Status and Training of Planners and Architects*.—Throughout our recommendations we have laid great stress on the important functions to be discharged by properly trained planners and also by architects. We are not satisfied that the training of either planners or architects is adequate for the work they will be called upon to perform if our recommendations are adopted. We are of the opinion that many employed as "town planners" are inadequately trained in the broader aspects of their work, especially in their knowledge of agricultural and rural matters and in their appreciation of landscape and landscape architecture. We are of the opinion that many architects have paid inadequate attention to the design of rural houses and to the design of village or town units rather than of individual dwellings or other buildings. We recommend that the universities, colleges and professional institutions concerned draw up comprehensive schemes for the training of young men and women to fulfil the requirements of the offices indicated in our proposals. We attach great importance to a very high standard being required and maintained for professional qualifications.

PART IV. A FIVE-YEAR PLAN FOR BRITAIN.

241. Throughout this Report we have stressed the importance of realizing that planning is a continuous and evolutionary process in national development. We have emphasized especially the need for long-term policies, for example in agriculture, to secure the necessary conditions of stability for satisfactory development. In the realm of forestry, planning involves looking ahead for at least a century; in constructional development possibly for even longer periods. In thus calling attention to the long-term character of planning there is danger that matters of real urgency, demanding immediate attention, may be deferred for future consideration. This is a very real danger: it is apparent at the present time when there is a not unnatural tendency to say that the immediate problem is the winning of the war and that all questions of planning and reconstruction can be considered when peace comes. Nothing could be more fallacious: for not only is the vision of the future the stimulus for the present, but plans must be made in advance and be ready when the time for their execution comes. As a nation we may have a genius for extemporisation, but our great failures, both in war and peace, have been due to a failure to think ahead and to make plans in advance.

Two points emerge. One is the necessity of making plans for the use of land *now* and of passing the necessary legislation so that they can be put into operation immediately on the cessation of hostilities—this we have already emphasized in the Report. The other is the importance of drawing up a definite plan of work to be accomplished within a definite period of time—a definite plan which shall be part of the general long-term planning policy. There is no magic in a specified number of years but much that we have recommended can, and should, be completed within five years and hence it is suggested that a definite five-year plan be formulated. We presume that the necessary legislation will be passed before the “zero hour” for the plan, which should coincide with the cessation of hostilities. The legislation should include that for the setting up of the Central Planning Authority (along the lines suggested in Chapter XII) with the result that the Minister for National Planning and the Central Planning Commission with its research staff and at least a skeleton staff for organisation will be in existence before the end of the war. In addition the existing Town and Country Planning Acts will, we assume, have been amended.

It is important to remember that all planning and reconstruction must start from the then existing position—after the war reconstruction will begin from the position as it will be *at that time* and not as it is at this moment. It will be an extension, albeit in different directions, of war-time developments. Hence, to be accomplished between now and then, there is the extremely important work of recording war-time changes and of collecting and tabulating, statistically and cartographically, the developments now taking place. Though this is, in most cases, being done for their own purposes by the Departments concerned (e.g., Board of Trade, Ministries of Food and Agriculture) the *correlation* of the information is not only important for the prosecution of the war itself but also as a basis for future planning. Thus the research work of such organizations as the Planning Division of the Ministry of Works and Planning, the Farm Survey of the Ministry of Agriculture and the Nuffield College Social Reconstruction Survey is fundamental in both aspects. It is vitally important at the present time that every man and woman in the country should be employed to the maximum advantage and, difficult though it may be to spare trained personnel, we regard this as a necessary part of the war effort.

Till now, national planning has scarcely been undertaken in Britain and there has never been in this country a proper co-ordination of the research underlying national planning: we consider this is an essential function of the Central Planning Authority. In the meantime, the research work required has been begun by the Planning Division of the Ministry of Works and Planning and we consider it of the utmost importance that this work should be extended, and commend especially the presentation of the information in map form on a uniform scale and the preparation of a national atlas of standardised maps for use in national planning. The experience of the Town and Country Planning Section, now transferred from the Ministry of Health to the Ministry of Works and Planning, together with this new material which is being or should be collected centrally, will form the firm basis of fact on which national planning and any national plan must be built.

In other cases some of the essential research investigations cannot be made till the war is over and take their place in the five-year plan.

On the presumption that the necessary central organisation with requisite powers will thus already be in existence, we recommend that a plan be drawn up, consistent with the general policy for continuous national planning, of work to be completed within five years and that the execution of the work be undertaken accordingly.

We recommend that within the *first* year:—

- (i) the system of land classification for planning purposes (paragraph 228) be agreed;
- (ii) the standard procedure for co-operation between the appropriate town-planning officers and officers representing agricultural and rural interests (paragraph 202) be laid down;
- (iii) the panels of architects and planners (paragraph 162) be set up;
- (iv) the comprehensive investigation of electricity, gas, and water supplies (paragraphs 165 to 167) be completed;
- (v) the demarcation of National Parks (paragraphs 178 and 231) and nature reserves (paragraph 179) be completed and the National Parks Authority be set up.

The order of priority of constructional development will have to be determined by the urgency of the various needs at the time and the availability of men and materials. It is clear that the five-year plan drawn up by the Central Planning Authority will have to embrace all those phases of national life which involve the use of land and will have, for example, to include a very extensive urban building and housing programme. We are concerned only with the parts of such a comprehensive plan as affect the countryside in contradistinction to the town. As an essential factor to promote stability over the initial and difficult period of reconstruction, we consider the Government should lay down a definite agricultural and food policy for at least five years, using the experience gained both by the Ministry of Agriculture and the Ministry of Food and the increasing knowledge of the nutritional needs of the people having regard to the national health. Given this, we recommend completion within the five years of:—

- (i) town and country planning schemes to cover the whole country so that there will be thereby a full indication of the areas where industrial zones are or are to be established and satellite towns or new settlements to be located;
- (ii) a definite number of houses for rural workers, the number to be decided by taking stock of the position at the time (paragraph 162);
- (iii) a full survey of all villages and hamlets to determine the existing facilities for village social centres (including playing fields) and the

drawing up of a plan for the provision where suitable of centres of the village college type and the opening in all counties of a long-term building programme accordingly (paragraph 170);

(iv) programmes for electricity, water and gas, to be based on the survey to be made in the first year (paragraphs 165, 166, 167);

(v) the National Park scheme with hostels, etc., in working order (paragraph 178);

(vi) the determination and signposting of all footpaths and bridle paths (paragraph 176);

(vii) rules, if any, for the control of access to the countryside, the use of commons and of highways and other rights of way (paragraphs 176, 177);

(viii) the elimination of unsightly advertisements, petrol stations, etc. (paragraphs 212-214);

(ix) the registration of title (paragraph 238).

During the whole period the educational campaign (paragraph 175) should be carried on continuously.

In this Report we have referred to England and Wales only, as Scotland is outside our terms of reference. We consider, however, that whatever degree of autonomy Scotland may have within the scheme, a national plan must make provision for the whole of Britain. The great problems of Scotland, such as the future of the Highlands, are enormous problems which ought to be faced by a united nation. Scotland lies wholly outside Britain's central belt of growing industry and population (page 7) and seems likely to suffer continued depopulation and migration of industry if the planning for Scotland is carried on independently.

242. We wish to record our high appreciation of the work of our Joint Secretaries, Mr. Thomas Sharp, of the Ministry of Works and Planning, and Mr. B. C. Engholm, of the Ministry of Agriculture and Fisheries, and our Assistant Secretary, Miss B. Searle. Their wide knowledge of the subjects of our enquiry, and their consistent devotion to the work of the Committee, have considerably lightened our task. In particular, the digest which they prepared of the huge body of evidence which we have received on so many aspects of our enquiry has been of inestimable value.

PART V.

SUMMARY OF RECOMMENDATIONS AND SUGGESTIONS.

In addition to recommendations, there are many suggestions as to investigations by the appropriate bodies which we consider either essential or desirable.

This summary is set out in the same order as the matters are considered in the body of the Report and no order of precedence is implied.

Rural Housing.

(i) The improvement of rural housing is an essential prerequisite of a contented countryside (162).

(ii) New houses should be built ready-wired for electricity and appropriately constructed to receive gas and water supplies even if these services are not immediately available (162)

(iii) The rating assessment position should be considered by the Government since at present it may hinder improvements (162).

(iv) The condition of all rural dwellings should be investigated and restorations in harmony with traditional local house design carried out to bring old dwellings up to modern standards (162).

(v) The number of rural houses fit for habitation is totally inadequate and a big building programme should be undertaken after the war (162).

(vi) Rural housing designs should be subject to approval for plans and elevations as well as for materials by Statutory Panels of paid architects and others which should be appointed for the purpose (162).

(vii) Women should be appointed members of all Housing Committees of Local Authorities (162).

Tied Cottages.

(i) The number of tied cottages should be reduced to a minimum and such tied cottages should normally be reserved for appropriate workers (163).

(ii) The supply of "untied" cottages should be always sufficient to house at least the agricultural workers of the district (163).

(iii) Farm workers should be encouraged to have cottages built for their own occupation and with this end in view the subsidy provisions of the 1938 Housing Act should be more widely known (163).

Agricultural Buildings.

All agricultural buildings should be brought under planning control (164).

Electricity.

(i) Electricity should be made available throughout the country at no higher price to the consumer than in the town. We do not anticipate that any increased burden will result for the town (165).

(ii) The Electricity Commissioners should be instructed to prepare a scheme for consideration by the Government for the reorganisation of electricity supply to enable this to be done. Various special points for consideration are mentioned (165).

(iii) Electricity undertakings should be subject to national planning control (165).

Gas.

(i) The Ministry of Fuel and Power and the Ministry of Agriculture in conjunction with bodies representing the industry and in consultation with the Central Planning Authority should examine the possibilities of extending gas supplies to rural areas and prepare plans accordingly (166).

(ii) Gas undertakings should be subject to national planning control (166).

Water Supply.

(i) The Ministries of Health and Agriculture in conjunction with the industry and in consultation with the Central Planning Authority should review the whole position of water supply from the national point of view with special reference to the following matters, amongst others:—

(a) the provision of a main supply to all towns and larger villages not at present supplied;

(b) the reorganisation of supply areas;

(c) the use of gathering grounds for additional purposes, e.g. hill sheep farming, afforestation, recreation;

(d) the facilitation of a piped supply to all farms, market gardens and allotments (167).

(ii) All water supply undertakings should be brought under national planning control (167).

Way Leaves.

The position with regard to way leaves should be examined and electricity, gas and water supply undertakings put on a comparable footing; provision for rights of compulsory acquisition of land and way leaves should be embodied in local planning schemes (168).

Village Institutions.

(i) A permanent advisory Committee on village life and institutions should be set up; it should include representatives of the Board of Education, the Ministry of Agriculture, and the various other national bodies concerned as well as of the religious bodies interested (170).

(ii) Steps should be taken to provide social centres of the village college type throughout the country (170).

(iii) A village hall should be provided in all smaller villages (170).

(iv) The performance of certain duties should be incumbent upon a properly elected Parish Council.

Playing Fields.

Every village should be provided with adequate playing fields and the advice of the National Playing Fields Association sought (171).

Forestry and Arboriculture.

(i) There should be an extension of afforestation on poor land together with the establishment of foresters' part-time holdings and national forest parks (173).

(ii) The Forestry Commission should be empowered to enforce the proper management of all woodland in the country (174).

(iii) More attention should be paid to the planting of trees and shrubs in the design and lay-out of housing development (174).

Access to the Countryside.

(i) There must be facility of access for all to the countryside but this must not interfere with the proper use of land in the national interest (175).

(ii) The Board of Education and the Ministry of Agriculture should organise a publicity campaign with the bodies concerned to educate the urban public, the landowners and farmers in the better provision and enjoyment of access to the countryside (175).

(iii) There should be an extension of organised visits officially recognised and supported by the Board of Education of parties of schoolchildren into the countryside (175).

(iv) If educational publicity fails adequately to control the use of the countryside by the urban public, there should be severer penalties and a stricter enforcement of the law (175).

Footpaths and Bridle-paths.

(i) There should be a statutory obligation on the local planning authority to record on maps and to signpost clearly all undisputed rights of way and to try and reach agreement with owners in disputed cases (176).

(ii) A small Footpaths Commission should be set up to investigate all disputed cases and give decisions (176).

(iii) The Commission should have the duty to recommend opening of new footpaths and closing of old—an order from the Central Planning Authority to make it legally effective (176).

(iv) the local authority should be under a statutory obligation to supervise and keep up footpaths (176).

(v) Footpaths in hilly and remote areas should be marked by bands of colour on trees, posts, stones, etc. (176).

(vi) Main "hikers' highways" should be recognised; and a right of way for walkers round the whole coast-line provided (176).

(vii) Bridle-paths should be dealt with by the Footpaths Commission by a similar procedure (176).

(viii) Footpaths on the field-side of existing hedges should be provided beside main roads in suitable cases (176).

Control of use of Rights of Way.

There should be regulation of use of rights of way on the basis of formula agreed by a Committee of interested bodies, and failing agreement by legislation (177).

National and Regional Parks and Other Open Spaces.

(i) National Parks should be delimited and a National Parks Authority set up (178).

(ii) The Central Planning Authority in consultation with the Ministry of Agriculture should take steps to record details of common lands, safeguard public rights of access, and commoners' rights; also the upkeep of commons should be investigated (178).

Nature Reservations.

The Central Planning Authority, in conjunction with the appropriate Scientific Societies, should delimit nature reserves, and take the necessary steps for reservation and control (179).

Camps.

Further holiday camps should be provided, subject to planning control of siting and design (180).

Industry in Country Areas.

Extractive Industries.

(i) Extractive industries, though their location is determined by immutable physical conditions, which may often necessitate their coming into country areas, should be subject to effective planning control (188).

(ii) In principle it is wrong that any body or person should be allowed to work land for the extraction of minerals and leave it in a derelict condition. Legislation should be passed imposing an obligation on all those who derive benefit from the working of land for minerals to restore that land for agriculture or afforestation or other purposes within a short specified period of time after the land has been worked out; the legislation to be passed as soon as the Government is satisfied that suitable equipment can be made available; the technical question of machinery should form the subject of immediate investigation by the Government Departments concerned" (189).

(iii) In future, where land is leased or bought for the purpose of extracting minerals the primary responsibility for restoring the surface should be placed on those working the minerals leaving it to them to make suitable financial arrangements with the landowners or other persons concerned (189).

(iv) Leave to prospect and develop minerals should be required and a deposit or security to cover the cost of restoration should be made (189).

(v) Provision should be made for the immediate or ultimate treatment of land rendered derelict through subsidence owing to deep workings where such treatment is economically feasible (189).

(vi) The Central Planning Authority should take steps to make a special investigation of derelict or decaying mining areas with a view to their more productive utilisation (189).

Immobile or Rooted Industries.

(vii) Many heavy industries are immobile and must remain in the large urban concentrations (190).

(viii) The disposal and future use of war factories established in the countryside should be determined by the Central Planning Authority in conjunction with the other Departments primarily concerned, each case being examined on its merits: the review should begin as soon as possible (190).

Linked Industries.

(ix) Linked industries should remain in existing urban concentrations or trading estates: the question of their dispersal into country areas only arises to a limited extent (191).

Mobile Industries.

(x) Many light industries are theoretically mobile but in practice are often tied to a limited choice of localities: where they are brought into rural areas they should be located in existing or new small towns rather than in villages or the open countryside (191, 196 and 199).

Public Utility Undertakings.

(xi) Production and storage units of public utility undertakings must sometimes be located in villages or in the open countryside. They should be subject to strict planning control as regards siting and appearance (193).

Rural Trades and Crafts.

(xii) Rural trades and crafts should continue to be sited in small towns or villages and should be encouraged. The creation of guilds of craftsmen and the whole question of apprenticeship to such crafts should be reviewed (194).

Trades providing for the conveniences of life.

(xiii) Such trades must find a place in country areas in those locations, namely small towns or villages, which are most convenient for the rural communities (195).

Seasonal and Part-time employment.

(xiv) No modern industry has been suggested which would provide seasonal or part-time employment for agricultural workers and their families: appropriate bodies should be asked to make a special study of this problem (197 and 198).

Noxious Industries.

(xv) The location of industries which emit noxious fumes or poisonous effluents should be subject to stringent control (199).

Location of Industry.

(xvi) Before new towns are established in country areas vacant or derelict industrial sites in existing towns should be fully utilised, but on balance introduction of carefully regulated industry into the towns of country areas would be beneficial (199).

Housing and Planning in Country Areas.

(i) From the initiation of all town planning schemes involving the use of agricultural land there should be the closest collaboration with the Ministry of Agriculture and Fisheries (202).

(ii) Every local planning scheme should be agreed by the Ministry of Agriculture before approval by the Central Planning Authority and in the event of disagreement the suggested machinery for the resolution of inter-departmental differences should be utilised (202).

(iii) As far as possible tracts of good soil in the neighbourhood of towns and villages should be kept for the dual purpose of open spaces and market gardens and allotments and accordingly allotment holders should have security of tenure instead of the liability of being displaced by housing development (202).

(iv) Provision should be made for town-dwellers to keep pigs and poultry and to continue other rural occupations (202).

(v) The area and delimitation of "green belts" should be agreed with the Ministry of Agriculture (202).

(vi) Agricultural, soil, and land classification surveys should be made round each expanding urban area with the object of directing housing and other construction towards less productive land and of preventing the disruption of farm units (202).

(vii) New satellite towns, housing estates, garden cities and suburbs should be sited wherever practicable away from the better farm land and due attention should be paid to agricultural considerations in their siting: as in the case of the planning of existing towns the Ministry of Agriculture should be consulted from the inception of the planning schemes (203).

(viii) Sporadic building in villages and rural areas should be controlled and planning schemes designed so as to direct all new settlers into country towns and villages except where they can advance some decisive reason why they should be housed in the open countryside (204).

(ix) New villages and extensions of villages should be planned and should as far as possible be of a compact and closely knit character: no attempt should be made to recreate in new villages the irregularity and "quaintness" of old ones: the services of the statutory panels of architects and planners should be available for all planning and construction in villages as well as in the open countryside (205).

(x) All new villages and country towns should be situated away from main traffic roads though within easy access to them and all existing villages and country towns which have main traffic roads running through them should be by-passed as far as possible (206).

(xi) New buildings in country areas should use to the full all the possibilities which new materials and new building techniques have made available though the buildings should be designed so as to harmonise with their surroundings: building in block formation is to be preferred to building in scattered detached units, so far as scenic effect is concerned: the use of materials should be controlled (207).

Aerodromes.

(i) Aerodromes have involved the use of much good agricultural land. The need for further Service aerodromes after the war is not likely to be great but if new ones are required consultation should take place as at present between the Departments concerned under the supervision and direction of the Central Planning Authority: it is hoped that it will not be necessary to take further tracts of good agricultural land (209).

(ii) If some Service aerodromes can be disposed of after the war the question of their alternative use should be settled by the Central Planning Authority in conjunction with the Departments concerned and not by the Service Departments alone (209).

(iii) Civil aerodromes should form a part of local planning schemes and their siting and buildings should be controlled: it is hoped that it will not be necessary to withdraw first class farm land for this purpose (209).

Defence Works.

The Central Planning Authority in consultation with the Service Departments should draw up plans now for the removal of temporary defence works: this removal should be carried out by the Ministry of Works on behalf of the Service Departments and the land made available for other purposes (210).

Roads and Railways.

(i) There should be greater co-ordination and collaboration between the Planning, Highway, and Agricultural Authorities in the case of the construction of roads (211).

(ii) The exemption of railway undertakings from planning control should cease (211).

(iii) There should be bold planning for a number of new trunk highways, even at the expense of using agricultural land, rather than the continuance of piece-meal widening of existing roads (211).

(iv) New trunk roads should be planned to avoid villages and small country towns (211).

(v) Railway level crossings on important roads should be eliminated and many old railway bridges should be rebuilt (211).

Petrol Stations.

(i) Regulation of petrol stations should be exercised under planning powers rather than by a separate system of by-laws: the law should be amended accordingly (212).

(ii) The control of petrol stations should be specially considered by the Central Planning Authority in conjunction with the Ministry of Transport and directions issued for observance by local planning authorities (212).

Other Wayside Construction.

Control should be exercised by local planning authorities subject to general directions by the Central Planning Authority over the construction and appearance of transport cafés, wayside cafés and restaurants, etc. (213).

Advertisements.

Control should be exercised over the siting and character of advertisements by means of a licensing system exercised by the local planning authorities in accordance with national principles (214).

Cemeteries.

Special consideration should be given by the Central Planning Authority to the question of cemeteries (215).

Planning.

All land should be planned both nationally and locally (141-2, 224).

Central Planning Authority.

Paragraphs 216 to 222 state in an already condensed form our recommendations for the machinery which we believe to be the most suitable both for national planning in general and for carrying out our substantive recommendations in particular. Our views as there summarised form a complete and considered whole; and are hardly capable of further condensation without running the risk of misunderstandings. We therefore refer the reader to the above paragraphs, 216-222.

National Planning.

Every interest which in any respect transcends merely local interests, should be regarded as a national interest (149, 223-4).

Local Planning.

(v) Local planning must be compulsory and not permissive (223).

(vi) The primary local planning unit should be the County or County Borough and its surrounding area, or a combination of local government units comparable in area, resources, or importance.

(vii) Local planning authorities must employ qualified personnel (223).

(viii) Consultation between neighbouring planning authorities must be compulsory, such co-ordination being a national interest (223).

(ix) Local planning authorities should be freed from the restrictions in the zoning of agricultural land due to liability for compensation (223).

(x) Where local authorities are carrying out their assigned part of a national plan the expense should not fall on their own financial resources, (223).

(xi) When approved, local planning schemes should be a complete code of enactments affecting both the development of the land and the functions of the statutory authorities within the area of the scheme (223).

(xii) All local planning schemes actually in operation or awaiting approval must be reviewed (226).

Regional Organisation.

(xiii) The Central Planning Commission should set up a regional organisation (224 and 225).

(xiv) There should be a special Welsh Department of the Commission presided over by a Welsh Commissioner (225).

Procedure.

(i) A procedure similar to that adopted under the present Town and Country Planning Act of 1932 but considerably strengthened both locally and by the super-imposition of national planning is the best method of controlling land use in country areas (229).

(ii) Certain land zones should be delimited nationally, e.g. national forest zones and national parks: in the case of national parks, the National Parks Authority should become the *ad hoc* Planning Authority (230 and 231).

(iii) In future *all* considerations affecting land use should be taken into account in land planning, and in country areas one of the most important of these must be the agricultural aspect: in planning rural land particular importance should be attached to agricultural considerations: agricultural land should not be handed over unless a clear case in the national interest has been made out—onus of proof (232 and 233).

(iv) It should be obligatory to obtain the consent of the local planning authority before any building or other constructional development is allowed to take place during "the interim period": before granting such consent the local planning authority should refer such cases to the Regional Officer of the Central Planning Authority who should have power, after consulting the Regional Officers of other Departments, to veto the proposed consent if it does not accord with the national interest: the local planning authority or the Regional Officers of any Government Department concerned should have the right to appeal to the Central Planning Authority if they disagree with the decision of the Regional Officer of the Central Planning Authority (234).

(v) Adequate provision should be made for appeals by both sides (235).

Control and Ownership of Land.

The power of compulsory acquisition of agricultural land by the State should be exercised where required in the interests of national planning or of providing agricultural efficiency (236).

Registration of Title.

Registration of title of land should be made compulsory over the whole of England and Wales (238).

Ordnance Survey.

Maps on the scale of 1:25,000 (new 2½ inches to the mile maps) should be made available for all planning purposes: adequate funds should be made available to the Ordnance Survey for this purpose (239).

Status and training of planners and architects.

Universities, college and professional institutions should draw up comprehensive schemes for the training of young men and women to act as planners and architects.

Five Year Plan for Britain.

Most of the recommendations made in the report should be carried out within a fixed space of time after the end of the war and suggestions are made accordingly.

† LESLIE SCOTT (*Chairman*).

† L. DUDLEY STAMP (*Vice-Chairman*).

ROBERT COBB.

† H. S. COOPER.

G DENMAN.

* HERMIONE HICHENS.

† A. E. MONKS.

RADNOR.

R. HUGH ROBERTS.

† PHILIP ROBINSON.

R. ALEC WARD.

THOMAS SHARP.

B. C. ENGHOLM.

Joint Secretaries.

July 23rd, 1942.

NOTE OF RESERVATION.

BY PROFESSOR S. R. DENNISON AND MRS. HICHENS.

While recognising the primary importance of improved machinery, both central and local, to ensure more effective control over construction in the countryside, we are not satisfied that the suggestions in Chapter XII of the Majority Report indicate the most suitable form. For we consider that planning, rather than development, is the proper function of central Government, and the proposals of our colleagues appear to run counter to this principle. Consideration of the machinery for Town and Country Planning is not, however, within our Terms of Reference, and we do not consider that we are called upon to make recommendations on this highly intricate matter, with its far-reaching implications for constitutional practice.

S. R. DENNISON.

HERMIONE HICHENS.

* With reservations (see above).

† These members also sign a memorandum on Valuation and Rating (see page 124.)

MINORITY REPORT by Professor S. R. DENNISON.

To the Rt. Hon. Lord PORTAL OF LAVERSTOKE, D.S.O., M.V.O.

MY LORD,

The terms of Reference require the Committee to take account of four elements in considering the conditions which should govern building in the countryside, namely:

- (i) the maintenance of agriculture;
- (ii) the location of industry;
- (iii) the well-being of rural communities;
- (iv) the preservation of rural amenities.

My colleagues take the view that the first, third, and fourth of these are inextricably mingled; thus (paragraph 172):

"One of the basic assumptions we have had to make is the maintenance of a prosperous agriculture after the war. We consider that the well-being of rural communities and the preservation of rural amenities are dependent upon this . . .".

Such a view must, of course, rest upon particular interpretations of what is meant by "the maintenance of a prosperous agriculture", "the well-being of rural communities", and "the preservation of rural amenities". It is because I cannot accept the interpretations which I understand my colleagues to place upon these concepts that, though in agreement with many of its recommendations relating to the details of planning, I am unable to sign the Majority Report; for divergence of view on these matters must involve difference of approach to the whole question of reconstruction in the countryside.

2. The three sections which immediately follow summarise an alternative view on these questions. The fourth section deals with the location of industry, where again, as the conclusions of the Majority Report essentially follow from the view quoted above, some difference of opinion is inevitable. The fifth section discusses the essential recommendations of the Majority Report in respect of the principles of control of the use of land, which I take to be the main subject on which the Committee was required to report. Finally, Section VI summarises my view on all these questions, and makes recommendations.

I.

THE MAINTENANCE OF AGRICULTURE.

3. The argument of this section is based on economic considerations, as economic issues of fundamental importance are involved. This is not to say that there are not values which cannot be measured in economic terms. It is, for instance, often argued that the benefits derived from agriculture are not confined to the food produced, or that agricultural pursuits involve a "way of life" the value of which cannot be measured in money. This may be true; even so, there is an economic aspect. For example, the community and the agricultural worker may have to pay a price, in the form of a lower material standard of life, in order to have the pleasure of contemplating a particular kind of rural scene, and of enjoying the other spiritual benefits accompanying agriculture. The whole idea of "balance of national interest" is based on sentiments and judgments relating to values which cannot

be subject to economic criteria; neither, however, are they the subject of any other generally accepted criteria or presumptions—there is, for example, no standard on which we could determine what proportion of a population *ought* to be engaged in agriculture. Where such uncertainty prevails, it may at least be worth while to start by considering the effects of policy on economic welfare, for not only is this the one item which is at least approximately measurable, but it is also of fundamental importance if any of the other amenities are to be made available and to be enjoyable—beautiful scenery has little appeal for the ill-fed and ill-clad. It is then possible to decide whether higher material standards of life should be sacrificed to other objectives; and the decision will at least be taken deliberately.

4. In discussing the maintenance of agriculture, it is impossible to avoid dealing with the question of the standard of life of the rural worker; for not only is that standard closely bound up with the general standard of living of the whole community, but a "prosperous agriculture" means little if it does not mean the prosperity of those who are engaged in it. Thus, in this section, while the emphasis is on certain broader considerations we shall be providing the economic background for a discussion of the well-being of rural communities.

5. Starting from the assumption that post-war agriculture will be maintained in a prosperous condition (and this is obviously a state much to be desired) the Majority Report amplifies this in two ways. First there is the question of size. Here the position is not unambiguous; but I take it that the view is that the present war-time size should at least be maintained—thus the "point of view that British agriculture, however vital to the nation in time of war, cannot be maintained in the same position in time of peace" is apparently rejected (Introduction, p vi). There are, moreover, three aspects of size—acreage, employment and output. With regard to acreage, the Majority regard it as essential that land must be farmed in the traditional way if the amenities of the countryside are to be preserved; hence, acreage must be maintained. The well-being of rural communities is regarded as dependent on agriculture, and there is much to suggest that the Majority deplores the "drift from the land"; both these view-points suggest maintenance of employment. Maintenance, and indeed increase, of output is the logical outcome of the maintenance of acreage and employment (see paragraph 9 below).

6. Secondly, there is the question of the type of agriculture. The relation between acreage and employment is not necessarily fixed. The development of mechanisation, or a decrease in tillage and increase of pasture, are two ways in which acreage could be maintained with a decreased labour force. Thus, an assumption about the type of farming is a logical corollary of the view that acreage and employment will be maintained; and the Majority interprets the Government pledge to maintain a "healthy and well-balanced" agriculture after the war as meaning "the continuance and revival of the traditional mixed character of British farming" (paragraph 158). Again, it is pointed out that, as a result of war conditions, and the reduced import of feeding-stuffs, formerly specialised farms "have been obliged to rely on their own land to supply their needs and as a result a *more balanced type* of farming has been adopted", (paragraph 110, my italics). The essential point is the maintenance at the present size of an agriculture of the "traditional" type, and this involves the maintenance of arable acreage and of employment. The Government statement which is quoted, however, says nothing on the size of agriculture. A "healthy and well-balanced" agri-

culture (or any other industry) might be small, medium, large, or, indeed, any size. Nor does it specify the *type* of agriculture.

7. It is not within my province to enter into the details of agricultural policy; but I share the anxiety of the rest of the Committee that a prosperous agriculture should provide better standards of life for the rural worker, and this not at the expense of the rest of the community, and I believe it to be an inescapable conclusion that the Majority's assumptions preclude the achievement of this aim.

8. In a progressive society, the ultimate prosperity of agriculture must depend upon increased efficiency. If the terms of trade were to turn against us, agriculture might become more prosperous. But this would be an outcome which few would regard as desirable. There are various ways in which increased efficiency can be attained, and one of them may be by greater specialisation; experience of the pre-war period shows that this way was neither uncommon nor unimportant. For this reason, I would not press for the "continuance and revival" of "traditional" farming. While evidence was received in support of the view of the Majority, there was also evidence of considerable weight on the other side, and expert agricultural opinion is by no means unanimously in favour of the Majority view.

9. Increased specialisation, however, may involve a smaller number of workers for a given amount of output and a given amount of land; it might result in a fall in employment even though acreage, though not tillage, were maintained. Other forms of increased efficiency often have the same effect. Thus, increased mechanisation means a saving of labour for a given output or acreage, as war-time experience has so clearly demonstrated (see Report, paragraph 172). The *prima facie* case is that, in general, improved technique will result in the saving of labour, and therefore reduction in employment for a given output, even though acreage be maintained—a result much to be desired on economic grounds, since increased output per head is the only secure basis of higher wages. The Majority, however, assumes all three—increased efficiency, maintenance of employment, and maintenance of acreage. This can only mean an increase in output (the Report looks to an increase in the yield per acre—paragraph 172)—and output of a kind which is produced by the traditional mixed farming.

10. The Majority Report implies that there is a case for this increased output consequent upon the maintenance of (more efficient) agriculture by linking the maintenance of agriculture with the statement that "the pre-war prevalence of malnutritional diseases must never again be allowed to occur" (Introduction, p. vi). This is not the place to discuss in detail the question of nutrition; but I may be permitted two general comments. Firstly, improved nutrition depends upon type of food as well as on quantity, involving more vegetables, milk, and other "protective" foods; but the "traditional" agriculture has never supplied these in adequate quantities—it seems that to be efficiently supplied they must be the products of specialised farming. And my colleagues appear to regard the quality of the land, and not the needs of the consumer, as the determining factor in deciding what shall be grown; thus, under war-time control, "the springing up of a factory with its accompaniment of houses has not unnecessarily diverted adjoining land particularly suited to one type of production to another type of production". Secondly, in so far as improved nutrition depends upon more food, this is not necessarily the same as increased production of food in this country—and this brings us right against the fundamental factors in respect of the size of agriculture.

11. Agriculture is not independent of the rest of our economic system, which is primarily dependent on international exchange for its ability to

maintain standards of life. As we do not know the shape of the post-war economic world, it is difficult to forecast the probable output of agriculture,* and therefore its size, either in acreage or employment, even without taking into account the effect of changing technique on the relation between the two. It is, moreover, undesirable that the attempt should be made to fix the size of any industry for the post-war period. Return to pre-war standards of life is so dependent upon international economic exchange that any action which impeded the revival of that exchange might well redound to our disadvantage. This is particularly important in respect of food supplies; our pre-war high standard of life depended to a large degree on the import of cheap, plentiful and varied food, and after the war, with our foreign investments depleted, and at least for a time our export trade considerably reduced, it will be more than ever important that we should be able to import food on the most favourable terms possible, if our standards (including those of the agricultural worker) are not to fall.

12. Apart from these particular difficulties, it is generally true that it is always undesirable to attempt to maintain, or to limit, the future size of any form of economic activity, for this must involve the stereotyping of the existing pattern of economic life, as indeed the Majority Report suggests. This can be seen quite clearly by imagining the process as having been performed at some previous time. In 1871, for example, when arable acreage was at a maximum, and which the Majority Report takes as the datum line for measuring the decline (paragraph 46 and graphs on page 24), agriculture employed more people, and a much larger proportion of the total occupied population (one-eighth as against one-twentieth) than it does now. If it had been decided to maintain that position, and such a policy could have been effectively enforced, then some at least of the economic progress since that date, with consequent rising standards of life, would have been impossible. And this would have affected agricultural equally with other workers. In spite of the decline from the "high farming" of the 1870's, with a decrease, both absolute and relative, in the numbers on the land, between 1880 and 1914 real wages in agriculture increased by over one-quarter. Not only did this reflect the general cheapening of many commodities, but it also resulted from changes in agriculture in response to new conditions. Some of these were undoubtedly painful, but the net result was the raising of the standards of the agricultural worker. While arable farming suffered as a result of increased imports of grain, an important factor making for a change to new types was a rise in incomes of the whole community, which meant that the townsman was more able to afford the higher quality products.†

13. So far there has been no precedent for the maintenance by the State of both the output and employment of an industry; but if it were conceded in agriculture, we might push the matter to its logical conclusion. If, again, taking 1870, *all* industries had been fixed in their relative magnitudes, most of the change since then could not have occurred, and we should still have standards approximating to those of that time, which were far below those which we now enjoy, even in the middle of a total war. And there is no

* Those who suggest that we should decide how much we should consume, and how much we can produce, and then import the difference, simply avoid all the relevant issues. Economic policy also has its important international political aspects, but these are not closely relevant to the present discussion.

† This raises an important point for the present time; the prosperity of British agriculture is closely linked with the ability of the consumer to buy the better quality product and the "protective" foods (milk, vegetables, etc.); the more he has to pay for the staples, and in so far as his income is kept down, the less he has to spend on these products, to the detriment of British agriculture. See e.g., Sir Daniel Hall, *Reconstruction and the Land* p. 126, for an illustration of how "poverty breeds poverty as the cycle of scarcity progresses."

reason in logic to stop at 1870; we might, for instance, go back to the middle of the 13th century; the idea of a congealed economic and social structure is, indeed, essentially medieval.

14. The essential point is that the full measure of economic progress, the improvement of standards of living, can take place only if, as technique and economic conditions change, resources (land, labour and capital) are not deliberately impeded in their movement from uses which yield a small return of goods to those which yield a larger return; to attempt to retain resources in any existing form of activity which gives a lower product than others, which are new and developing, must involve a loss to the community in general in that standards of life as a whole are kept down. Moreover, the resources devoted to the particular use may suffer heavily; unless, for instance, they receive subsidies from the rest of the community, the wages of the workers may be kept down below those of other employments where the productivity is higher. Much of the desire to prevent this movement of resources arises from the frequent unfortunate effects of economic change on individuals or groups, who lose their means of livelihood in one direction and cannot easily transfer to others, or who are kept in employment but forced to accept lower wages and standards of living. But the remedy is not to attempt to *prevent* the movement away from the less productive activities; it is to *assist* it.

15. In spite of the difficulties (indicated in paragraph 11) of forecasting the exact place of agriculture after the war, there are strong grounds for maintaining that a large agriculture in this country must be the antithesis of a prosperous agriculture. The "drift from the land," as the Report emphasises, results largely from the inferior economic conditions of the agricultural worker, and, so far as the worker is concerned, will not be stopped "unless and until both wages and living conditions are on a parity in town and country." It is thus a response to changes in economic conditions by which new forms of activity become more productive than the old. It is not peculiar to this country, nor is it particularly recent. All over the world, agriculture has been for decades relatively declining, in the sense that the population engaged in agriculture is becoming a smaller proportion of the total population. In some cases (e.g., Britain), the decline has been absolute as well as relative.

16. The Report looks to increased efficiency as the means of maintaining a large and prosperous agriculture. But the *absolute* level of efficiency in agriculture is virtually meaningless; the relevant consideration is the *relative* efficiency of resources applied to agriculture and those applied to other activities which can provide our food indirectly. Thus, to quote Professor D. H. Macgregor's Report as a member of the Agricultural Tribunal of Investigation (1924):—

"The size, in terms of output or employment of the industry will not depend on its absolute efficiency, but on the relative costs of obtaining food by the direct method of home farming and by the indirect method of exporting manufactures. In a country with a national economy like our own, the problem of maintaining agriculture is the other aspect of our manufacturing progress" (page 101; see also p. 107).

Thus, taking the matter from the standpoint of labour, the productivity of the agricultural worker must be compared with that of the industrial worker, and these two with productivities abroad. Suppose, for example, the British agricultural worker can produce x bushels of wheat in a year, that the worker in an export industry can produce goods which sell abroad for $\pounds y$, and that the Canadian farmer sells $2x$ bushels of wheat for $\pounds y$; then we should need two men to produce as much wheat directly from the land as

we get indirectly from one man in industry. The relative productivity of the agricultural worker would be half that of the industrial worker.*

17. While this is a purely hypothetical example, it is indeed the case that, for many types of produce, we can obtain more food by employing labour and capital in manufacturing goods which are exported, and importing food in return, than we can by using the same amount of labour and real capital in agriculture to produce the food directly. This, indeed, is one of the recognised advantages that we now have over Germany, who produces more of her food than we do, but at a proportionately much greater cost in labour and capital; thus it has been estimated that it normally takes 162 men in Germany to provide food for a thousand consumers, and only 98 in this country. If we did not have this degree of superior facility, then we should need close on three million more men engaged in providing the same amount of food, and, therefore, not available to provide other goods and services. In other words, our standard of life would be much lower, as a normal feature. And in war-time the advantage is even more important, for it means an immense difference in the whole use of man-power; it is difficult indeed to imagine what would be our position to-day if we had to have three million more people engaged in feeding the country.

18. This, indeed, is the answer to the case which is so often put forward, that a large agriculture must be maintained for purposes of security in time of war. The need for security is not denied, but it will not be achieved by methods which are wasteful of man-power in war as well as in peace. The most effective way in which to achieve security is by the holding of stocks of food and a reserve of shipping. Not only is this the cheapest method in time of peace, but it also makes it unnecessary to use resources for food production which are sorely needed for other purposes in time of war. Thus, the maintenance of a large agriculture in peace-time does not render us more, but less, secure.

19. It has been suggested that after the war we shall not be able to obtain food from abroad on such favourable terms as we have done hitherto. If it did happen that the prices at which we could buy agricultural commodities abroad increased relatively to the prices at which we could sell manufactures, this would be tantamount to an increase in the relative productivity of British agriculture without there having been any absolute increase of efficiency, and agriculture might be both larger and more prosperous. This would not, however, alter the fact that there would be a reduction in the standard of living, that the prosperity of agriculture would be accompanied by general poverty. It is, indeed, possible that there will be some movement of the terms of trade against us; but this is no reason for voluntarily imposing an added degree of the disadvantageous conditions which it would bring, in order to give added prosperity to the "traditional" agriculture.

20. The low relative productivity of the agricultural worker may seem surprising in view of the fact that the productivity of British agriculture is, in one sense, among the highest in the world.* Thus, for example, while the average yield of wheat per acre for the years 1927-30 in Britain was 17.8 cwts., it was only 9.7 and 7.6 cwts. respectively in Canada and the United States of America (much the same is true of other crops). Yet if we compare wages, we find that they were higher in both these countries than in Britain. The reason is to be found in the difference between intensive and extensive cultivations; we got our high yields by the use of relatively much more

* This is a highly simplified model; to be complete, it would need various complications (e.g., to deal with differences in capital costs). But its essential validity is shown in the immediately following paragraph—and in many other directions.

labour, and wages depend on productivity per head,* not output per acre. If we compare this country with the rest of Europe, we find that we have the highest agricultural wages, and this results from an output per head well in excess of that in any other European country, which again results from less intensive cultivation, with a much higher proportion of land to labour (e.g., on the average we have at most 3 men employed per 100 acres, Denmark, which stands next to us in respect of output per head, has 6, and other Western European countries about 12). And again our higher wages and output per head are associated with a lower value of output per acre. The conclusion appears inescapable: again to quote Professor Macgregor:—

“ Prosperity of agriculture is the prosperity of persons, not of acres. At some cost or other in labour, it is obviously possible to increase yields . . . what can be earned depends ultimately upon what can be produced per person engaged ” (*op. cit.* page 159).

21. In emphasising the need for better economic conditions in the countryside if the drift from the land is to be checked, the Majority “ confidently anticipate that the former great disparity between industrial and agricultural wages or earnings will not recur ” (paragraph 159). There is here, however, a dilemma which is not resolved. The maintenance of agricultural wages at a parity with those of the towns might well increase, and not check, the movement from the land. As in the past, the farmer would be stimulated to replace men by machines and to find other ways of economising labour (see Majority Report, paragraph 48). He would be influenced by productivity per head. Though the “ pull ” from the town on the worker might be less, the “ push ” from the farm by the farmer might be very markedly strengthened. No one wishes to see low wages for any class of workers, and it is to be profoundly hoped that the former poverty of rural workers need not be repeated. But, unless they are subsidised, wages can only be raised if productivity per head is increased; and at the same time as my colleagues desire to raise wages, they assume that agriculture will be “ maintained ” in a way that would make it virtually impossible to increase output per head. For the surest way in which to do this is to increase the amount of land per worker, which would also involve some concentration on the better land. In other words, a smaller agriculture from the point of view of employment, and possibly as regards acreage also, can alone provide the means to prosperity.

22. Against this it is urged that agriculture can be “ progressive,” that increased efficiency can give greater productivity. The Committee has had much evidence on the possibility of increased efficiency and, therefore, higher productivity; and my colleagues stress the need to ensure that farming should be efficient (paragraph 172). It should be remembered that the increase of output per head needed to give adequate wages is not a matter of a few per cent., but one of considerable magnitude. Moreover, while agricultural technique in this country develops, it is not to be expected that it will stand still in other countries, nor in industry in this country; and, as has already been emphasised, it is not absolute but relative efficiency which is relevant. Thus, in order to maintain equality in productivity per head, agriculture would have to do even more than make up the present very great leeway. It is well here to recall past experience; agricultural efficiency has certainly increased in the last hundred years, but “ the *relative* level of agricultural as compared

* While productivity is the main, and fundamental, element, placing an upper limit to wages, other factors influence the wages actually paid. For example, the comparatively unorganised condition of agricultural labour was at one time important; and it was reflected in the fact that wages in purely agricultural areas were usually less than those of agricultural workers in areas where alternative, and competing, employment was available.

with industrial wages was clearly no better in 1936 than a century ago,** and this in spite of improvements in the bargaining position of the worker and the minimum wage regulation of the previous twenty years. While it is to be expected that some improvement will take place, the Committee has had no evidence to indicate that the increase in productivity can be of the revolutionary character necessary to bring parity of output per head with other industries or with agriculture in certain other countries.† And, indeed, it is to "gradual reorganisation" that the Majority Reports looks (paragraph 158).

23. In this case, a large and prosperous agriculture can only be maintained at the expense of the rest of the community, and the agricultural worker given a wage equal to that of the industrial worker if he is subsidised, whether directly or indirectly. The conditions of the present time, when the former disparity of wages has been reduced, are of this character. The effect of the minimum wage of 60s. per week is not felt by the farmer nor directly by the consumer because it is financed by the Exchequer, in the form of prices fixed on the basis of costs (thus when the minimum was raised from 48s. to 60s. in December, 1941, prices were accordingly increased, and the Exchequer met the bill). The alternative would be increased prices to the consumer, and this is avoided by the stabilisation policy costing £135 million a year—consumers, in the form of taxpayers, still bear the burden, though it is distributed more equitably. The Government has announced that agricultural prices will be maintained for at least one year after the war, to allow agriculture a breathing space for readjustment; but this is not a promise that subsidies of the present magnitude will continue indefinitely. This might involve the imposition of a burden on the rest of the community which it would not permanently consent to bear, particularly when the emphasis of the post-war period will be on the raising of standards, an aim which cannot be achieved by maintaining—and still less by expanding—activities of low relative productivity. Malnutrition, in particular, will not be conquered by growing more food at great cost, but by cheap food, obtained with the minimum expenditure of resources. This can only be achieved by a full measure of economic progress, with the diversion of resources to the uses which yield the greatest product. Thus "if there is a conflict between the economic tendency and an endeavour merely to put people on the land, it is certain that the economic tendency will win." (Macgregor, *op. cit.* p. 194.) We might add that, even if the "economic tendency" does not appear to win directly by breaking through the restrictions imposed by Governments, it ensures that the victory of restriction will be Pyrrhic, for the standard of life of the whole community will of a certainty be kept below what it otherwise might have been.

24. An increase in demand for the protective foods might cushion any fall in agricultural output in other directions; social policy might well be directed towards increasing such demand—for example, a large increase in the consumption of milk is much to be desired. But this obviously should be done at the lowest possible cost, which means an increase of specialized and mechanized farming, which would be at the expense of the mixed farming favoured by the Majority. The whole position has been well summarised by Viscount Astor and Mr. Rowntree‡:

"The aims of our agricultural policy should be to promote a happy marriage between nutrition and agriculture rather than to shut out over-

* Astor and Rowntree, *British Agriculture* (1938), p. 314; full details are given to support the statement.

† Most of the advocates of improved efficiency stress the need for considerably increased capital. But this involves a cost in human labour and real resources; almost any branch of economic activity could be made "efficient" if it had virtually unlimited capital.

‡ *British Agriculture*, p. 442.

seas competition, to improve the conditions of the agricultural labourers rather than to increase their numbers, to treat agriculture as an industry or group of industries, possessing peculiar features indeed, but existing for the purpose of satisfying human wants with the minimum of toil, rather than as a way of life to be preserved with the minimum of change."

II.

THE WELL-BEING OF RURAL COMMUNITIES.

25. The Majority Report points to the need for the improvement of physical living conditions in rural areas; the evidence in this respect was very strong, and I concur in the desirability of improvement, particularly of housing conditions. The Majority makes various "positive proposals" to this end; some of these appear to raise as many issues as they solve, e.g., "the assessment position calls for consideration," the number of "free" cottages "ought always to be kept sufficient to house at least the agricultural workers." While accepting many of the proposals of detail, I consider that there are two directions in which the Majority has failed to take sufficient account of matters of fundamental importance, and that this substantially affects the validity of their major conclusions.

26. First, there is the assumption that rural workers will be prosperous and able to pay "economic rents" and to "pay equally with the town dweller for the same or comparable services." Moreover, they will be prosperous because agriculture is "maintained." Thus:

"We believe that the maintenance of agriculture, together with the steps recommended in Chapter VII, will in themselves have the effect of reviving country life and bringing about an improvement in the physical and social standards of country areas" (paragraph 199).

The "steps recommended in Chapter VII" are, however, simply the proposals for improved living conditions; they are, in large measure, dependent upon the achievement of higher standards of life (indeed, some of them, such as improved housing, are part of a better standard), and in themselves do nothing to provide the means which alone can give better standards. Thus we are thrown back on the prosperity of agriculture. But if the assumptions of the Majority on the maintenance of agriculture are such as to preclude higher wages for agricultural workers (save at the expense of prohibitive subsidies), then the hopes for improved living conditions are vain indeed. This possibility that agriculture might not be able to give the necessary standards is not admitted.

27. Secondly, insufficient attention is paid to the question of the cost of providing the desired services, a matter which is particularly important in the case of the public utilities. The Majority focuses attention on the equalisation of price to the consumers in town and country alike, and hopes that measures of reorganisation of the public utility industries will serve to equalise the cost of providing the services to both; I do not consider that the evidence bears out this expectation.

28. The first of these assumptions, the prosperity of rural workers who are enabled to pay economic rents, has the effect of over-simplifying the approach to the question of housing. Neither the level of agricultural wages nor the number of agricultural workers is a constant item, and, moreover, they are closely connected. Higher wages would almost certainly mean a smaller number of workers, and, conversely, a high level of employment must carry with it lower wages (see paragraph 21 above); to assume the mainten-

ance both of employment and high wages ignores this essential relationship. Its relevance to housing is obvious. If wages were high, then there would be fewer workers needing houses, but there could be an improvement in the standards because of the ability to pay higher rents. On the other hand, if employment were maintained, there would be more agricultural workers needing houses, but they would not be able to pay rents equivalent to those paid by town dwellers. Further, "economic rent" is not a constant fixed quantity; it depends not only upon the demand for houses, but also upon the conditions of their supply, including here the costs of building and the rate of interest. There is, indeed, a whole complex of factors operative, and it is impossible to evaluate the housing position without taking them all into account.

29. On the evidence available, I do not consider it possible to make any assessment of the position. There is, however, some support for the view that special assistance is needed if much progress is to be made. This has been recognised in the past; grants for reconditioning cottages can be made under the Housing (Rural Workers) Acts, while the Housing (Financial Provisions) Act of 1938 provided for important financial assistance in the case of new houses, but here the war has intervened to stop progress. In any post-war schemes for housing, it is desirable that special consideration should be given to the needs and the position of the agricultural worker.

30. The question of cost is most relevant to the provision of public utility services. The Majority desires to see much more extended provision of services than now exists. Thus:—

"The supply of electricity is an essential service which in due course should be available in the home of practically every citizen in town and country alike, at no higher price to the consumer in the country than in the town".—(Paragraph 165.)

This refers to electricity, but the approach is similar for the other public services. It is stated that this recommendation is "influenced by the evidence received of the success attending comprehensive schemes for rural supply," such schemes having "resulted in an actual lowering of charges to *urban* consumers whose consumption, often for lighting only, is relatively small". I consider this to represent a misinterpretation of the general sense of the evidence. From the statement just quoted it will be seen that the emphasis is on consumption; but the urban consumers not only had low consumption—the capital costs of supplying them were also low. The evidence strongly stressed the importance of capital charges in the provision of utility services; such charges are, indeed, a major element in the costs of provision of electricity supply. It is, moreover, obvious that the capital costs per consumer of providing a sparse population must be very much greater than those of supplying a dense population. If, therefore, the rural areas were to be supplied at the same price as urban areas, this could only be by means of throwing part of the extra cost of supplying the rural consumer on to the urban consumer; for example, the urban consumer would have to pay part of the cost of the laying of a service line free of charge to every dwelling in every village of 250 inhabitants or over, and to every village or hamlet of less than 250 inhabitants. Re-organisation of areas of supply would not abolish the physical fact of different densities of population; it would simply mean that areas with low capital costs per consumer would be subsidising areas with high capital costs. This, indeed, was definitely stated in evidence. The price policy envisaged by the Majority thus has implications which should be explored before any pronouncement can be made on this matter. Moreover, the question of the reorganisation of supply of public utilities raises matters

of high technical complexity, and I do not consider it to be within our province to make any recommendations upon this.

31. The matters discussed so far relate to the improvement of physical conditions in rural communities, and the view is expressed that, while such improvement is profoundly to be desired, factors are involved which the Majority does not adequately take into account. There is, however, a question of even more fundamental importance. It is the meaning to be attributed to the "well-being" of rural communities. The rural community is, in effect, regarded by the Majority as agricultural; its well-being is dependent upon agriculture, and anything which damages agriculture is therefore undesirable. Moreover, there is implied a dichotomy in the social system, that the rural community is independent of the rest of the system and should be protected from too much contact with it.

32. While it may be a valid generalisation on very broad lines that "rural" is synonymous with "agricultural" it is by no means always the case that the village is predominantly dependent on agriculture. There are many areas in which the countryside has become essentially suburban, though retaining much of its traditional appearance (though this is not, I gather, viewed with much favour by my colleagues).

33. This view that the rural community is an independent part of the social system which should be maintained and preserved is developed in a series of arguments of ever-widening comprehensiveness. First, it is held that the maintenance of agriculture will itself bring about "an improvement in the physical and social standards of country areas" (paragraph 199); thus it is unnecessary to introduce any new elements from outside. Secondly, it is urged that, as well as being unnecessary to ensure better standards, the introduction of industry, or other elements, into the countryside brings "disturbance to rural life" and may have undesirable consequences—there are "the frequently disastrous effects in pre-war years of the unregulated development of industry and housing on the social and economic structure and on the amenities of the countryside" (paragraph 161*). Thirdly, it is recommended that industry, and much other development, ought therefore not to go into the countryside, but should be directed to small towns. Apart from those establishments which "desire new sites and either prefer country areas or a new town"—and these should be directed to the town—the obvious place is an already industrialised, preferably depressed, area; thus "it would be wasteful and against the national interest if such industries should be encouraged to go into country areas before urban sites which should be developed have been taken up" (paragraph 199). This conclusion derives partly from an analysis of the factors affecting the location of various types of industry (this is discussed in Section IV), as well as from a feeling for the possible needs of depressed areas. But it is also the logical outcome of the view under discussion—otherwise it is not possible to account for the recommendation that industries which may want to go into the countryside should not be allowed to do so, but must go into nearby towns. The whole is perhaps best summed up in the implications of the following sentence:—

"The post-war rehabilitation of industry need not be incompatible with the maintenance of the countryside and we consider that both aims will be best achieved by measures designed to encourage the growth

* There is a more temperate view in paragraph 106, following a discussion of the advantages and disadvantages of urban construction in the countryside. The advantages and disadvantages of industry in country areas, as submitted in evidence, are given in paragraph 199.

of industry in those areas where the greatest balance of advantage will result both to the prosperity of industry and to the nation as a whole." (Paragraph 157.)

This is the dichotomy; industry should be directed to the old urban areas or to new towns, and allow the rural communities to remain agricultural, the two keeping to their own spheres.

34. The "disastrous" effects of the impact of the town on country life are held to be chiefly the result of economic causes. While there may be a clash of temperaments, and "social disturbance through contact between rural and urban mentalities," the Committee places most emphasis on the economic element. Thus "grave discontent" was often caused by the agricultural worker seeing his children take factory employment and thereby earn more than he did; the factory workers were able to pay higher rents and so got the best houses; there are the "dangers" of "the attraction away from agriculture of the younger generation and the causing of discontent . . . by attracting married women from their households for full-time paid employment" (paragraph 199). The chief cause of disturbance, in short, is largely a difference of economic standards, and all that this implies.

35. The Majority Report points out (paragraph 125) that the present "greater prosperity of agriculture has reduced the friction that often resulted from the contact of urban and rural mentalities". Moreover, it is desired to have some of the benefits of industrial development, so long as it does not come into the village. If industries were to go into the small towns, then the balance would be on the side of advantage—"they would rely less on labour from purely agricultural communities and for those in villages who so desire, it would be possible to take up employment in nearby town factories without living away from home". The "dangers", however, remain; the younger generation might still be attracted away from agriculture, and it is hard to see why the menfolk should be less discontented if their wives go daily to work a few miles away than if they work in the village (paragraph 199).

36. The fundamental question which must be answered is this: Should the rural community, if it has lower standards as a result of lower wages in agriculture, be "protected" from the impact of higher standards? My view is that it should not. While I hesitate to impute the opposite view to the Majority, it is difficult to draw any other conclusion from the statement that "constructional development in country areas *must* be inconsistent with the maintenance of agriculture and the well-being of rural communities . . . unless economic and living conditions of farmers and agricultural workers are brought to an approximate parity with those (i.e. of workers) engaged in industry and commerce", and thus the "various steps" needed to bring parity "must be considered as *conditions precedent*" to such development (paragraphs 182-183, italics given). The only meaning which I can give to this is that rural workers must first be given as high standards as the industrial workers, and industry can then be introduced; otherwise the rural population will become discontented at the sight of higher standards than they themselves enjoy, and will move away from agriculture. And the logical inference is that if they cannot be given such high standards, then industry must be kept away.* The Majority, indeed, expects that agriculture can give the necessary standards; but this throws us back once more on our fundamental disagreement on the question of the prosperity of a large agriculture.

37. If the maintenance of a prosperous agriculture were not taken to mean the maintenance of a big agriculture, higher standards could be made available

* Here the Majority gets the worst of both worlds; industry stays out of the villages so as to avoid disturbing them, but the workers might still go to work in the nearby towns.

for the agricultural worker, and the fears of the Majority about the effects of new construction on rural life could be largely allayed; and there would be room for some industrial development, controlled as necessary, in the countryside. It would be possible in such conditions for people of different temperaments to engage in agriculture or industry as they desired, and for alternative ways of employment to be open for the families of agricultural workers, without incurring the logical absurdity of putting industry into towns in order to protect rural communities and yet give their inhabitants some of its benefits. Perhaps then, too, it would be possible to create the "mutual understanding and sympathy that are necessary if all sections of the community are to enjoy the countryside which, if it is the heritage of all, is in the guardianship of the countryman" (paragraph 87). But in the view of the Majority it is so important to avoid any risk to the three linked entities of agriculture, rural communities, and the countryside, that the countryman must be protected in his guardianship, and industry only allowed in if he has been given better standards as "conditions precedent" to its introduction.

38. While it may well be agreed that there are some villages, and some rural areas, which ought to be kept "unspoilt" for the sake of amenity,* it would indeed be unfortunate if we were to accept as inevitable a general cleavage of interest between town and country; certain differences of temperament there may be (though I, personally, doubt whether these are greater than the differences which exist from one individual to another, irrespective of their surroundings), but this is no reason for maintaining two isolated types of community with different standards of living, in order to avoid incurring "disadvantages to agriculture and to the beauty of the countryside" (these being regarded as the same thing). Much of the isolation of rural communities has, of course, been broken down by the development of motor transport, wireless, and the telephone; and it would be difficult to deny that a great deal of the change has been for the better. In any case, for better or worse, it will continue, and I see no reason why the benefits of economic progress should not be further extended to the countryside. Indeed, it is by the introduction of some industrial development that there is most hope of the improvement of the social and economic conditions in the countryside, in the future as in the past. This has been urged in evidence, and the relevant points are given in the Majority Report (pages 69-70). The two main advantages are the provision of alternative employment, usually with higher standards of living, and the introduction of improved physical and social services. On the first, I would refer to the discussion in Section I, the corollary of which is that new avenues of employment for the children of agricultural workers are desirable, not only to raise their own standards but also to enable them to make effective contribution towards raising those of the whole community. On the second, in view of the probably very great cost of providing public utilities for small groups of consumers, the best hopes of providing these services in many rural areas is probably as a by-product of their provision to larger consumers. With regard to social services, and particularly education, again the standard which can be provided must be influenced by the size of population served. For the Village College, for example, there is needed a large village or a group of villages, with a population of several thousand.

39. Another matter of importance is the danger of too exclusive dependence of a community on a single industry. This was clearly brought out by the condition of certain coal-mining communities in the period between the two

* And perhaps occasionally for other reasons. The village of Laxton, Nottinghamshire, for example, presents an interesting survival of the open-field system of cultivation and organisation.

wars, and the Majority points to the importance of diversification in the case of industries in a town. There is no reason to ignore this danger merely because the single industry is agriculture, as American experience in the same inter-war period made abundantly clear.

40. These various grounds constitute a strong case against any view that the introduction of new industries or other construction into villages or the countryside should be restricted as a general principle; our duty is to foster the "well-being" of rural communities, and not to "preserve" them. Indeed, the most difficult cases in any scheme of planning will not be those rural areas where new development is likely to occur, but those where employment and economic activity remain comparatively static.

III.

THE PRESERVATION OF AMENITIES.

41. The view of the Majority is that the beauties of the countryside depend essentially on agriculture, and the extension of this view is that anything which is hurtful to agriculture helps to destroy those beauties: thus (paragraph 160) "the countryside cannot be 'preserved' (though its peculiar value to the nation can be); it must be farmed if it is to retain those features which give it distinctive charm and character." The last phrase here suggests not only that land must be farmed, but farmed in the "traditional" way if the countryside is to remain beautiful, and this is also implied elsewhere—"the cheapest way, indeed the only way, of preserving the countryside *in anything like its traditional aspect* would still be to farm it" (my italics). This is the primary reason for regarding the development of new construction as harmful to amenities. Even apart from any direct effects of construction, it is held that a decrease in the size, or change of type, of agriculture would bring with it, a loss of amenity. A secondary reason is "spoliation by bad siting and bad design of buildings." This latter can be at least partly met by planning control; for the primary cause, however, there is no cure but prevention except where this is obviously impossible (e.g., in the extraction of minerals).

42. Now if it were indeed true that amenities depended thus closely on agriculture, there might be a case for the extension and protection of agriculture and the limitation of any construction which would be harmful to it. This would not rest on economic grounds, for it would involve a considerable cost to the whole community.* It would rest on the deliberate choice of the community to retain amenities at the expense of lower material standards of life; in this event, the cost should not fall on the agricultural worker more than on other members of the community—he should be paid in respect of his function as landscape gardener and not as agriculturist. The cost would certainly be very great, and it is doubtful whether such beauty would be a luxury which we could afford; our standards of living are not so high that there would be a margin sufficient to allow of it.

43. The question is, however, in fact one of degree. This for two reasons. First, the area likely to be covered by new construction, even though there were widespread dispersal of congested cities, is but a small part of the total of agricultural land. Thus (taking the figures quoted in paragraphs 8 and 88 of the Majority Report) in the twelve years up to 1939, the average annual use of land for building and general construction amounted to 0.15 per cent.

* Unless it were hoped to cover the costs by the development of tourist traffic.

of the agricultural acreage. Even if this were doubled, the rate of destruction of beauty would not be very formidable.

44. It is, however, one purpose of planning to prevent new construction from destroying beauty, so that even this relatively small amount of encroachment on the countryside need not involve a comparable loss of amenity. There are areas in the country where it would be generally agreed that construction should be severely restricted, if not completely prevented, and intelligent and comprehensive control would ensure that such areas would be left unspoilt. While construction might thereby be kept entirely away from certain areas, there would still be left the major part of the countryside, and here planning control should make it possible to reduce to a minimum any sacrifice of amenity.

45. Secondly, the choice is not one between *all* and *no* beauty, but between *more* and *less*. Thus, even with a smaller agriculture, in which some land went out of cultivation, there would still be agriculture over the major part of the countryside. The question to be answered is thus not, "Shall we preserve beauty?", but, "How much beauty can we preserve?". There is here all the difference between a heavy burden and a reasonable cost undergone for the sake of amenity—and with a small prosperous agriculture there would still be a great deal of amenity at no cost at all.

46. Thus, even on the view taken by the Majority, the case for limitation (apart from planning control) of construction and "maintenance" of agriculture in order to preserve amenities is not very strong. But the view that amenities depend upon farming is at least open to doubt; still more questionable is the view that amenities depend upon a particular type of agriculture. Beauty can take many different forms; indeed, one of the aspects of the English scene commented on by the Majority is its variety, and to regard the "traditional aspect" of the countryside as the form which must be maintained if we are not to suffer loss of beauty is to interpret the concept far too narrowly. It is at least arguable that a pastoral country can be as beautiful as one characterised by more mixed farming. Or, again, there is no means of proving that grassland is more lovely than rough grazings, or that pastoral country provides more amenity than wild moorland. While it is true that if we want to preserve the countryside exactly in its present state, then it must be farmed exactly as it is farmed now, this is no proof that amenity will diminish if it is used differently, or farmed in a different way. Just as an indication of differences in opinion, we may quote Sir Daniel Hall on the "traditional" aspect of the landscape: "Aesthetically considered, too much of our land looks overcrowded and fidgety; it may well be rendered simpler and of wider sweep, even if it loses something of its snug, 'comfortable' aspect".*

47. There are, moreover, amenities which do not depend upon agriculture. Those who regard woodland as the most beautiful form might well ask for much more extensive afforestation; indeed, the Majority desires to see such a development, from the point of view of amenity as well as of economic considerations. Because of the latter it is desired that only low grade land should be used for the purpose; the relevance of the quality of the land is discussed later (Section V), but in the present context, which is the cost of amenities (including agriculture), there is no reason why afforestation should be limited to low grade land if the amenities of woodlands are desirable and

* *Reconstruction and the Land* (p. 188), where it is also suggested that some of the characteristic features which the Majority attributes to the needs of agriculture (e.g., hedgerows, small plantations) are often the result of other needs, and may be a nuisance to farming.

can be provided more cheaply than those of mixed farming. If, say, a couple of million acres were afforested, this would go some way towards absorbing land released by having a smaller agriculture. Or, again much beauty has been created consciously; the Report draws attention to the English parklands. There is also the question of National Parks, where, if there is agriculture, "it becomes secondary to the main purpose, which is public recreation" (paragraph 178). In short, it is wrong to limit the meaning of "amenity" to any particular form of rural scene.

48. The Majority emphasise that the beauties of the countryside are made by man; this is true, but it also should be remembered that, by the same token, man can remake, and create equal, if not more, beauty. It was suggested in evidence, and I strongly agree, that what is destroyed by physical change is often not physical beauty, but mental associations. Changes in the type of farming, and the development of physical construction, will both bring changes in the countryside, but there is no reason why they should not create greater amenity than existed before.

49. Moreover, the new beauty might be enjoyed by far greater numbers than now have that privilege. Though much can be done by such measures as holiday camps, and others suggested by the Majority, these touch only the fringe of the problem. If those now living in congested towns are to have full access to the amenities of the countryside, then they must move further into the countryside to live, and this may involve the creation of new satellite towns and garden cities, perhaps based on existing villages, as much as the extension of purely "suburban" development. The Majority states that "the principle that the countryside is the heritage of all involves the corollary that there must be facility of access for all", but adds that "facilities for access must not interfere with the proper use of the land in the national interest and must therefore be controlled in that interest" (paragraph 175). I can conceive of no more proper way to use land in the national interest than that it should be used for the new construction necessary to provide better living conditions for the people—and their children after them—now living in congested towns. In particular it is important not to attempt to preserve amenities which can only be preserved so long as full access to them is denied to those whose heritage they are.

50. The solution must lie in more comprehensive planning control. Not only it is necessary to prevent the spoliation of a particular piece of beauty (such as may occur through bad design or siting, or, indeed, in some cases by the intrusion of any construction), but it is also necessary that new construction should be so ordered as to give the best possible conditions for those who are to live in the new communities. It is in this way that a new beauty can be created—not, it is true, the beauty of a purely rural countryside (though much of that will remain), but a beauty with a greater social significance, enjoyed by many more than now have that privilege.

IV.

THE LOCATION OF INDUSTRY.

51. The amount of construction needed for industrial development in the open countryside is not likely to be great, even if there were some dispersal of industry. Factories and workshops are only a small part of all buildings, probably well under one-tenth. Although industry usually needs other associated construction in the form of housing, the amount of new development even over a series of years, is not a large item in the total of existing

construction. The spread of existing urban concentrations is a much more important matter than the possibility of the siting of industries in the countryside.

52. We were, however, instructed to consider the factors affecting the location of industry, and to this end the Committee analyses several main types of industry in accordance with the relative strengths of the various factors affecting location. The conclusion reached is that there are only two types (excluding rural crafts and some public utility developments) likely to be situated in the countryside,

53. First there are the extractive industries. Here it is clear that "where dictated by economic considerations . . . industries thus based on minerals must be brought to them even into the heart of the countryside" (paragraph 189). This must apply equally to the "immobile or rooted" industries based on minerals, because of the decisive importance of transport costs. Here the objective of control is to prevent avoidable damage to amenity. I do not, however, accept the specific proposals of the Majority. Firstly, in regard to restoration of land from which minerals have been taken, evidence showed that the costs might be very heavy, perhaps equivalent to many times the agricultural value of the land, and of major importance to the efficiency of industry. I consider that insufficient weight has been given to this, and that the proposed obligation on the industry to restore might prove unduly restrictive. Secondly, I cannot agree that a satisfactory plan for future exploitation can be drawn up in the way suggested: "areas which may be worked should be determined as far as possible nationally and with the guidance of expert geological advice and *in consultation with the industries concerned*" (my italics). Much more than geological advice is involved; and there is a very questionable principle involved in placing power to influence the potential future development of any particular mineral resources in the hands of those already interested in the exploitation of their own deposits. The time and manner of exploitation of resources depends upon many factors, technical and economic, which are subject to many and unpredictable changes, and it is not possible to lay down in advance any "plan" which shall be binding on future generations.

54. Secondly, there is a possibility that "mobile" industries will also be sited in the countryside, but the view of the Majority is that they will—and should—be situated in small towns. Even though the industrialist may want to come to a village, "no modern factory can be located in a village without the village changing its character and becoming, in fact, a small town". It is also stated that "every endeavour should be made to 'balance' industries", and this means not one but several factories in one place. Moreover, with modern construction, "even a small factory uses a considerable area of land". For these reasons the Majority desires that industries should not be sited in villages, but rather in small towns.

55. This is a conclusion which is open to serious objection. The idea of "balance" of industries should not be pressed too far. The unfortunate consequences of the dependence of communities on a single major industry have often been painfully manifest, and the encouragement of some diversification is a means of counteracting this. But once we go beyond this generalisation, the ground becomes less sure; certainly it is not possible to delineate, as some have tried to do, an "optimum" scheme of balanced industries for any particular size of community—still less would it be possible to "plan" communities accordingly. The Majority recognises the difficulties here, and simply stresses the need for some diversification. This should not, of course, mean that individual developments must be held up until several industries can be introduced simultaneously. As suggested earlier (paragraph 39), the

case for more diversification might indicate a need for the development of some industries in the countryside to reduce the too great dependence of rural communities on agriculture.

56. The amount of land used in factory construction is small, even though the design is "horizontal". Moreover, the amount needed does not diminish by a change of site from the open countryside to the outskirts of a village; the relevant question is any difference of effect on farming. The argument of Section II suggested the conclusion that it is not necessarily desirable as a principle to preserve villages in their existing state. Considerable benefits could be derived from the infusion of some industry into the countryside; and, moreover, some villages might be suitable nuclei for new small towns which may develop as a result of dispersal from congested towns. No principles can be laid down here; such changes must be subject to planning control, the object of which would be to prevent the avoidable destruction of amenity, not to prevent reasonable development.

57. While not taking exception to the classification of industries used by the Majority, I would emphasise that it involves a high degree of generalisation, and cannot always be applied to the individual case. There are possibilities of industrial units of all the types enumerated seeking to establish themselves in country areas; Government action would then have to take into account the effects on costs, as well as on other matters, in each particular case. It is virtually impossible to lay down any precise principles here, as each case would have to be considered on its merits in its relation to a general framework of planning regulation. On the evidence before the Committee, I do not think it possible to provide any guidance on the bigger questions of industrial location, whose proper solution must depend in large part on considerations outside our Terms of Reference.

58. We were asked to pay special attention to the possibilities of part-time and seasonal employment. As the Majority Report records, we have failed to find any industry which closely dovetails with agriculture. Each industry subject to such fluctuations has its own methods of dealing with the problem, and the variation of conditions is such that no generalised remedy is likely to be effective. There is, however, one way in which rural communities might benefit by the introduction of some seasonal trades; it is a common practice of such trades to employ additional women at their peak periods, and periodic employment made available by this means might be appropriate for women in rural areas.

V.

CONTROL OF THE USE OF LAND.

59. Given the encroachment of physical construction into the countryside as a consequence of the dispersal of urban concentrations, the essential point made by the Majority is that the use of land should be so controlled as to prevent, as far as possible, the alienation of good quality land from agriculture. It is regarded as the task of the Central Planning Authority "so to plan the whole country that the optimum use is found for every type of land" (paragraph 224). The preservation of good quality land is, however, considered to be of peculiar importance because of its relevance to the maintenance of agriculture; it is considered "a matter of justice to the nation in any system for handing over agricultural land for development, that the applicant should be obliged to make out a good and clear case" (paragraph 233). Thus there are several specific recommendations directed to this end, e.g., that "unless there

are strong reasons to the contrary, new towns should not be sited on good agricultural land " (paragraph 203).

60. The amount of highly fertile land is admittedly limited; but this is not in itself a sufficient reason for giving agriculture a prior claim to it. Fertile land is only valuable because it produces food more easily, that is, with less labour and capital, than less fertile land; the loss to the community which results from the alienation of the best land from agriculture is that involved in the need to use more resources in order to produce a given amount of food from other, poorer, land. Fertility, however, is not the only quality of land which gives it usefulness. Even in the case of agriculture, the "goodness" of the land may be determined by other, primarily economic, factors, for example, nearness to a particular market, or suitability for a particular type of farming. Moreover, agriculture is not the sole, or even the main, activity of the nation, and thus full account must be taken of the suitability of a piece of land in respect of other uses. Thus, for example, a particular piece of land, as well as being fertile, might also be an ideal site for a factory, from the point of view of transport or other costs. In this event, if the productivity of the land used as a factory site is greater than its productivity when used in agriculture, then there is every reason to use it for industry. Or, again, a tract of good quality land may be the most suitable area for the creation of a "lung" for a congested city, and there might be a strong case for using it for that purpose. The Majority does not dispute the need to take these other factors into account, nor that other needs may over-ride the agricultural (see e.g., recommendation in paragraph 203 (i)); but it places the needs of agriculture in a specially privileged position, and proposes measures particularly designed to preserve good land in agricultural use.

61. The case for control must rest on the possibility that siting may be partly fortuitous. It has been emphasised in evidence that the quality of the land is not usually considered when the siting of a factory (or any other building) is being decided. It may be that a higher price has to be paid for good than poor quality land, but this is a small item in the costs involved in construction, and may do little to deter the purchaser, while, on the other hand, the extra cost may be at least offset by lower costs of construction. While it is true that in a world of perfect competition even small differences in cost would be of great importance to industry, sufficient to turn the balance either way, the fact is that in the world as it is they are at times neglected, and the way laid open to more fortuitous decisions. Thus, while there is no general presumption that the best land must be kept for agriculture in all circumstances, it is true that if any particular building could be sited *with equal convenience* (and this means, for an industry, that no increase in costs will be involved) on a piece of poor quality land instead of on a piece of the best quality, to site it on the latter would involve an avoidable loss, measured by the greater yield of the best land over the poorer land with the application of the same amount of resources. On this basis, it is clear that any development should not take place on good land if it could be equally well sited on inferior land, or even if the alternative site on inferior land involved some slight measure of disadvantage.

62. This, however, is not a principle which is easy to apply; and I consider that the methods desired by the Majority would give far too much weight to the agricultural interest. The determination of what is "good" land is not yet certain; while the present agricultural use of land may be a rough guide, the evidence was virtually unanimous that more knowledge (such as would result from soil surveys) is much to be desired. This is a technical matter which should be capable of solution, and the Majority makes recommendations accordingly (e.g., paragraph 202 (vi)). The fundamental difficulty, however, is that the possibility of making close measurements of advantages

and disadvantages is slight. While in the case of an industrial establishment it might be theoretically possible to measure two economic quantities against each other (the loss of land of a particular quality to agriculture on the one hand, and the effect on the costs of the industry on the other),* in other cases the imponderable factors become of much greater importance; for example, how are we to balance the loss of a piece of good land to agriculture, particularly if it is being used to grow daffodils or tulips (as is some of the finest land in the country), against the benefits of a "lung" to a congested city?

63. The Majority Report makes two proposals with regard to means of ensuring that the quality of the land should be taken into consideration. One is the "onus of proof": "Land which is included in one of the categories of good land should not be alienated from its present use unless it can be clearly shown that it is on balance in the national interest that the change should be made" (paragraph 233). The other is that "from the initiation of all town-planning schemes involving the use of agricultural land there should be the closest collaboration with the Ministry of Agriculture," and, in case this does not give adequate protection, "every town-planning scheme should be agreed by the Ministry of Agriculture before approval by the Central Planning Authority," with provision that disagreements must be settled by the interdepartmental machinery suggested in the Report (paragraphs 202 and 221).† I can conceive of only two reasons for this second proviso. Either it results from a belief that the machinery outlined for the Central Planning Authority (and with it the "onus of proof") will be ineffective in securing the proper "balance of national interest"; or it is desired to give one interest in the use of land an additional weight in the process of planning. On the question of machinery, the Committee was not asked to express a view; if the second reason applies, I wish strongly to protest that no particular Government Department, or other body, interested in the use of land should be given a prior right independently of the machinery of the Central Planning Authority. This would, in my opinion, undermine one of the cardinal principles of planning—that *all* interests should have full consideration. The Majority, while stating that "all considerations affecting land use should be taken into account", desire special precautions to ensure that "particular importance should be attached to agricultural considerations." (Summary of Recommendations, p. 98.)

64. There are two specific objections to the "onus of proof." First, I do not consider that it solves the problem. Even in the simplest case put forward, "where the land is of a good agricultural quality and there is no dominant reason why there should be constructional development" (and the answer of the Central Planning Authority would be "No"), there is room for disagreement, according to interpretation of what is a "dominant reason" for construction. The task of the Central Planning Authority in giving its negative answer here is "simple" only if it has general principles to determine what is a dominant reason. In the less "simple" cases, and these would be the majority, there is nothing to fill this hiatus between the principle and its application. Nor will it be filled by the mere accumulation of "detailed information almost everywhere as a result of research work," for

* There is already a great deal of indirect intervention in the way in which land is used, e.g., particular subsidies to agriculture. This is one reason why such measurement would be difficult and why an "equilibrium" analysis of social and private interest, in terms of marginal private and marginal social net products, becomes somewhat irrelevant to the issue.

† This quotation refers to the rebuilding of damaged towns; there are similar recommendations for other cases, e.g., paragraph 203.

the matter is not one of information of local conditions, but of differences of opinion about the relative importance of various imponderables.

65. Secondly, even without special machinery to protect agricultural land, it is a principle which might well prove highly restrictive; if rigidly applied, it could hinder many desirable town planning developments. The very fact that a "developer" (whether private or public) is prepared to pay a price (usually much above the agricultural value) for a piece of land indicates an alternative use. If the use is for industry, then it is virtually certain that productivity will be greater than it is in agriculture; if it is for housing, or similar developments, then it is possible that there is a social need which should be met. The major social interest in the use of land is, indeed, for housing and not for agriculture.* About nine-tenths of the population is non-agricultural; but the number of agricultural families per 1000 acres varies between perhaps 30 and 200, whereas the number of families enjoying the use of land under residential development may be 4,000 to 12,000 per 1000 acres. It has been suggested in evidence that the extension of open development, in the form of expansion of existing towns and the creation of new towns, necessary to relieve present congestion, may involve the use of a further 250,000 acres of land over the next two decades. This is less than one per cent. of existing agricultural land—or perhaps under one-half of that used to grow the raw material for alcohol.

66. I consider it to be a primary national interest that such development should take place, and that nothing should unnecessarily stand in its way; it is particularly important that individual developments should not be held up on account of appeal to vague general interests. Thus, I am led to recommend the application, through the machinery of planning control, of a principle of onus of proof the reverse of that recommended by the Majority. It should be incumbent upon the agricultural occupier, or other agricultural interest, to show cause why land should not be diverted to some other use, and opportunity for such demonstration should always be provided. This would provide protection to the agricultural interest, possibly represented by the post-war successors of the County War Agricultural Executive Committees; for example, it could point to alternative sites on inferior land which might be equally suitable, and argue the case for diversion of the development to such land. In this way, the best land would not be unnecessarily alienated from agriculture, while it would be of general advantage if it were common knowledge that constructional development would not be impeded by the maintenance of land for agriculture unless a clear case of national advantage were made out.

VI.

SUMMARY AND RECOMMENDATIONS.

67. It was suggested at the outset of this Report (paragraph 3) that the determination of the "national advantage" is not an easy matter, because of differences of judgment on matters not subject to any precise standard of measurement. Starting from the economic basis, however, it is clearly desirable that the people should have as high a material standard of life as possible. The interpretation placed by the Majority Report on the "maintenance of agriculture" involves a reduction in standards of living generally below those which could otherwise be attained. It also precludes a higher standard for the agricultural worker, except at a cost to the rest of the

* It is also a major social interest that malnutrition should be reduced. But this will not be done by bolstering up the "traditional" agriculture. (See Section I.)

community, which it might not consent permanently to bear. This maintenance of an agriculture which cannot afford to pay higher wages makes much more difficult the provision of improved housing and other services for agricultural workers, so much desired by my colleagues—a desire which I fully share. The suggestions of the Majority Report for improved public services in rural areas involve costs to the community which have not been fully examined, and are not presented in the Report.

68. The non-economic elements can be summed up in the word "amenities". It may be that the national interest demands some sacrifice of economic benefits in order to ensure the preservation of amenities, but the necessity for this should be patently proved before lower standards are imposed upon the people. Moreover, the matter is one of degree, for amenities are varied in character—the desire to experience the beauty of the countryside can be met in different ways—and it would not be necessary to sacrifice the whole of existing amenities in order to ensure the attainment of economic benefits. It should, indeed, be possible to create new forms of amenity. It is by means of a rising economic standard of life that amenities can be more extensively enjoyed—indeed, the ability to enjoy them depends in considerable degree on a high standard of life; for example, increased leisure is a reflection of higher economic standards. Not only would the maintenance of a large "traditional" agriculture rule out the possibility of greatly improved standards, but also there are other ways of "preserving" rural amenities, and developing a healthy and well-balanced agriculture.

69. One form in which a higher standard of life finds its expression is general improvement of living conditions. If this is to be allowed full play, then there must be more constructional development in the countryside in order to relieve congestion in the towns. While agreeing with the Majority that re-development of the older industrial areas is not only desirable but offers some scope for the relief of existing congestion, I do not consider that the whole, or even a major part, of the problem can be solved this way. It may well be that the Central Planning Authority will seek to prevent further growth of the existing concentrations (as recommended by the Barlow Commission) and to stimulate development in the formerly depressed areas; but there would still be some need for expansion into the countryside, according to the circumstances of each case. It is for this reason that, in planning the use of any land, full weight should in every case be given to all considerations relevant to the national interest, and there should not be, as my colleagues suggest, a prior right given to agriculture over other interests. There are, indeed, many more pressing social needs than that of preservation of land for agriculture.

70. Above all, it is socially and politically undesirable to foster a cleavage of interest between agriculture and the rest of the community by isolating the countryside from the "disastrous" effects of the impact of town life. The Majority is right in thinking, as it apparently does, that its conception of British agriculture involves a division of interest between town and country. While a policy aimed at producing as cheaply as possible those foodstuffs most required by the nation would indeed mean changes in the character of agriculture, and a smaller number of workers, it could create a prosperous agriculture and provide standards for the worker which would make isolation as unnecessary as it is undesirable. Such a policy, combined with planning control of constructional development, could leave unimpaired the major amenities of the countryside and also create new forms of amenity, making both accessible to a larger proportion of the population than can enjoy the countryside to-day. There is no evidence that the country, or, indeed, enlightened agricultural opinion, wishes to see agriculture and its rural communities treated as museum pieces, given the "best possible conditions", but sheltered

from change, and isolated from the greater part of the life of the community. Agriculture and agricultural workers have a more positive part to play in the life of the country, and they can only play it if they are brought more closely into touch with what is, after all, the major part of British life.

71. These considerations should make clear the reason why I am unable to sign the Majority Report. I wish, however, to make very clear that the point of view from which my strictures spring is not of a negative character. Equally, with my colleagues, I desire the maintenance—even the increase—of the beauty of the countryside. Equally, too, I desire that those whom it is in the national interest to employ in agriculture shall have a decent standard of living. And I do not think that these ends can be achieved by just leaving things alone. My differences with the Majority rest, not upon a negative attitude, but upon a different view of what positive policy is in the national interest. My colleagues seek their ends by measures which involve as little change as possible in the *status quo*; I seek measures which permit more dynamic adaptation. They place chief reliance on the maintenance of the traditional agriculture; I prefer to rely on the maintenance of better standards of Town and Country Planning. These should be capable, without conferring special privileges for special forms of economic activity, of providing a framework within which industries suitable for a rural setting may have a healthy development, and better living conditions for those now living in congested towns may be assured, without detriment to that heritage of beauty which we all desire to hand down to future generations.

72. The defects in pre-war planning are well-known.* There was, first, too much emphasis on the "towns". Planning in the countryside was introduced by the Rural Zone method, which is not entirely satisfactory, and it is clear that the division between town and country, implicit in the existing system, has its serious drawbacks. Secondly, there is the question of compensation, which must be resolved if effective planning in the countryside is to be realised; this, however, is the subject of investigation by Mr. Justice Uthwatt's Committee. The third major deficiency is simply that planning authorities have planned badly and in piecemeal fashion. The fourth is associated with this, and is the absence of government machinery for national planning.

73. If these deficiencies were remedied, then the disadvantages which were formerly attendant upon construction in the countryside should be avoidable in the future. Control must not, however, be of a character to impose unnecessary restriction upon development, and it is essential to preserve elasticity. While there is a consensus of opinion on the need for more comprehensive planning, there are differing views on its exact scope; and there are various competing principles which might be followed if the intention were to create a "Plan". The best line of development is to strengthen and supplement existing forms of control, rather than to attempt to design a wooden lay-out of the country in conformity with any particular set of principles. New construction, even over a series of years, is but a small part of the total existing development, and big changes in the appearance of the country are hardly to be expected quickly. Meanwhile, standards (and even "principles") change, and this is a further reason for maintaining as much flexibility as possible.

74. The essential need, then, is for more effective planning and not necessarily for a new set of "principles". This is the major change necessary to ensure the preservation of existing forms of amenity and the creation of new forms without placing restriction on the developments which are necessary if improved living conditions for both town and country dwellers are to be

* See Chapter VI of the Majority Report.

ensured. We were not asked to report on changes in planning machinery,* but it is clear that a central authority, and improved local machinery, are both necessary if planning regulation is to be more effective in the future than it has been in the past. Thus the recommendations which follow assume that such machinery will be established. The Majority draws attention to many points at which planning control should be extended, and to many matters where further consideration is necessary. In the main, I concur in the Majority view on these questions of detail. The recommendations which follow relate to larger questions of principle.

75. *Recommendations.*

(1) All land in the countryside should be included in planning schemes, and no interests of national importance should be excluded from the aims of planning.

(2) While particular planning schemes will certainly involve preservation of much land in agricultural use, it should not be accepted as a *necessary principle* that construction in the countryside must be prevented in order to maintain agriculture, to preserve rural communities, or to preserve amenities.

(3) The introduction of industry into the countryside, under effective planning control, could be of considerable benefit to rural communities; rather than preventing such development, some measure of it should be encouraged as part of the dispersal of existing concentrations.

(4) The needs of agriculture (including the protection of good quality land) should be met through the normal machinery of planning schemes, and not given any prior rights. They would be met, without undue hindrance to development, if the agricultural user were given opportunity to show cause why change of use of a particular piece of land should not be allowed.

(5) Construction for statutory undertakings, road developments, and all government construction, should be subject to planning control, equally with private development.

(6) The preservation and creation of amenity involves control over design and siting of all construction in the countryside; planning schemes should make adequate provision for this, though in the interests of æsthetics and economy care should be taken not to create too rigorous standards of design.

(7) The special needs of agricultural workers should be taken into account in any post-war housing schemes.

76. The circumstances of war have made me for the time being a Civil Servant, as they have other members of the Committee. It is perhaps superfluous to stress that I accepted appointment to the Committee, not as a Civil Servant, but as an economist interested in the subjects of investigation, and that the findings of this Report are purely personal, and in no way an indication of official views.

I join with the Majority in expressing thanks to the Joint Secretaries and the Assistant Secretary of the Committee; their work has indeed considerably eased a most difficult task.

I have the honour to be,

My Lord,

Your obedient servant,

(Signed) S. R. DENNISON.

* See separate Note of Reservation.

ADDITIONAL MEMORANDUM ON VALUATION AND RATING

BY THE CHAIRMAN, VICE-CHAIRMAN, MR. H. S. COOPER, MR. A. E. MONKS
AND MR. PHILIP ROBINSON

Valuation.—The varied proposals in connection with national planning, whether compulsory acquisition of land, or purchase of development rights or merely re-development of war-damaged areas, all involve *valuation* of land and other property. Although we have not heard evidence specifically on this question, those members of the Committee whose names are appended below have given considerable thought to the matter and regard it as directly relevant to the subject matter of the Report. At the same time we offer these observations with some diffidence, in view of the deliberations of Mr. Justice Uthwatt's Committee, into whose field of investigation they must of necessity come.

We recommend that the opportunity be taken of securing a standard valuation which can be used for a wide variety of purposes.

Whilst it would be convenient for the valuation to be recorded at the same time as the compulsory registration of title which we recommend in paragraph 238, the one proposal is not necessarily contingent on the other, as we recognise that the extension of compulsory registration of title will take some time, and the need for valuation is immediate.

We recommend that all owners of property, or their duly accredited agents, be required to make a declaration of value of each separate holding of land and/or other real property owned by them for which they have separate title, or are separately assessed. This declaration could be made under oath, or under the same form of "true declaration" as is used in income tax returns, declarations of property for insurance, etc. The value declared by the owner we refer to below as the "declared value".

The "declared value" would be used, after approval by the Valuation Department of the Inland Revenue, or other appropriate authority appointed for the purpose, as the general basis for purposes of taxation and valuation such as Schedule A, local rates (with certain exceptions), water rates, electricity and gas two-part tariffs (where based on rateable value), compulsory and voluntary insurance, probate purposes and death duties.

In the case of compulsory acquisition, compensation, etc., there would be no claim to a higher valuation. Where taxation is on annual value, Government would fix the rate of interest allowable for calculation.

The "declared value" should refer to the position on 31st March, 1939. For any subsequent alteration the owner would require to prove substantial modification of circumstances, except that *national* adjustments could be made to meet changes in the value of money, i.e., if the 1939 declared value be regarded as par = 100, in 1944 all values might be 105 or 96 or any other figure decided by the Annual Finance Act or by other statutory means.

For "agricultural holdings" the declared value of the whole farm or unit should, if possible, be divided by the declarer at the time of declaration into (a) value of the dwelling with or without curtilage; (b) value of farm and other buildings; (c) value of the land, considered as agricultural land; (d) value of development rights, if any, which might be subtracted from the total when bases of taxation and rating are being considered. Under (c) the declarer should be given the opportunity of declaring, and encouraged to declare, especially where the farm covers land of various types or is in separate blocks, the value (e.g., per acre) of each part, using Ordnance Survey field numbers. The plan of the farm is already being recorded by the Ministry of Agriculture as part of the Farm Survey.

For non-agricultural holdings the declared value of the whole must be divided by the declarer into (a) site value; (b) value of property thereon.

"Declared values" would be open for inspection and so known just as rateable values are known to enquirers such as prospective purchasers. Private bargains would not be limited by declared values, but purchasers would take on the obligations implied by known "declared values". Compulsory purchase, or acquisition by public authorities under pooling or planning schemes would be on the basis of declared values.

Owners would be entitled to produce evidence of prices paid for property after 31st March, 1939, and such evidence as current assessment, insurances, etc., in support of their declared values.

Where substantial changes in value have been occasioned since 31st March, 1939, by Government works, e.g., drainage, road-making, replanning, the "betterment" would be the property of the State and conversely owners of property decreased in value would be entitled to compensation; where the changes have been occasioned by private enterprise there should be a right to revaluation.

Rating and Finance.—We attach great importance to our recommendations for the compulsory registration of title and the fixing of a standard valuation for all real property, as we see therein the removal of some of the major obstacles which have in the past hindered or even prevented good planning. For example, the reservation of good agricultural land by the creation of agricultural zones, in which building development is prohibited, has been virtually impossible in the past because of the liability of the local authority to pay compensation to owners who would thus be deprived of "development rights". This bogey disappears once the value is decided as outlined above. Similarly, many good schemes, whether of building development or of the reorganisation (e.g., draining) of farming land have been made impossible by one or more owners becoming aware of the plans and making exorbitant demands. With a standard valuation and a power of compulsory purchase by the State this obstacle also disappears.

It is because we believe that, by this or by other means the obstacles to good planning which have existed in the past will be removed, that we agreed to the recommendation in paragraph 223(e) of the Report that the planning of rural land should proceed independently of financial considerations on the old basis. Rateable values should be determined on a national basis: we leave open the question of the fixation of local rates. The undignified scramble for increased rateable value and the consequent increase in the spending power of the local authority have been two other major obstacles to good planning in the past, and whilst leaving a wide discretion to the local authorities, we consider that their actions in the matter of the fixing of rates should be in concord with a national plan.

LESLIE SCOTT.
L. DUDLEY STAMP.
H. S. COOPER.
A. E. MONKS.
PHILIP ROBINSON.

APPENDIX

LIST OF EVIDENCE

1. WRITTEN AND ORAL EVIDENCE

(A) GOVERNMENT DEPARTMENTS AND OTHER ORGANISATIONS

<i>Department or Organisation.</i>	<i>Witnesses</i>
Agriculture and Fisheries, Ministry of	Sir Donald Fergusson, K.C.B. Mr. A. R. Manktelow.
Air Ministry	Sir John Abraham, K.B.E., C.B. Mr. C. G. Caines, O.B.E.
Association for Planning and Regional Reconstruction.	Lord Forrester. Dr. Annie Noll. Mr. O. W. Roskill. Professor E. G. R. Taylor, D.Sc. Miss J. Tyrwhitt, A.R.I.B.A., A.M.T.P.I.
Board of Education	Sir Robert Wood, K.B.E., C.B.
Board of Trade	Professor Henry Clay, M.A. Miss Cohen.
Brewers Society	Sir Edgar Sanders. Sir Robert Ewbank.
British Electrical Development Association, Inc.	Mr. A. J. Fippard. Mr. J. I. Bernard, B.Sc.

<i>Department or Organisation.</i>	<i>Witnesses.</i>
British Waterworks Association ...	Mr. A. E. Cornewall-Walker, M.Inst.C.E. Mr. A. E. Fordham. Mr. K. Forster, M.Inst.C.E. Colonel E. F. W. Mackenzie, O.B.E., M.C., M.B., D.P.H. Mr. J. F. Haseldine, M.C., M.Inst. C.E. Mr. Leonard W. F. Millis, B.Sc.
Cadbury Brothers Limited ...	Mr. William N. Hallett, M.I.Mech.E.
Central Landowners Association ...	Lord Phillimore. Major Proby.
Central Parish Councils Committee...	Sir Lawrence Chubb. Mr. W. H. Middleton. Mr. E. A. Major.
Chartered Surveyors' Institution ...	Mr. L. Shoeten Sack, O.B.E. Mr. R. Trumper, F.S.I. Mr. J. A. Arnold-Forster, F.S.I. Mr. H. E. Sherwin, F.S.I. Mr. H. G. Evans, F.S.I. Sir Lawrence Chubb.
Commons, Open Spaces and Foot- paths Preservation Society.	
Council for the Preservation of Rural England.	Professor Patrick Abercrombie, M.A., F.R.I.B.A. Sir Percy Hurd, M.P. Captain H. G. Griffin, C.B.E. Professor R. S. T. Chorley, M.A. Mr. G. Langley-Taylor, F.R.I.B.A., F.S.I., M.T.P.I. Mr. G. H. Jack, F.R.I.B.A., M.Inst.C.E., F.S.A. Mr. Clough Williams-Ellis, M.C., J.P., F.R.I.B.A., M.T.P.I.
Council for the Preservation of Rural Wales.	
County Councils Association ...	Lt-Col. Sir Merrik Burrell, C.B.E., J.P. Dr. E. W. Maples, O.B.E. Mr. W. L. Platts. Mr. H. Rowland. Mr. J. Adams, M.T.P.I.
Dartington Hall, the Trustees of ...	Dr. W. K. Slater, F.I.C.
Development Commission ...	Professor W. G. S. Adams, C.H., LL.D., M.A., D.C.L. Sir William Dampier, Bart., F.R.S., D.Sc. Mr. E. H. E. Havelock.
Electricity Commission ...	Mr. J. MacFarlane Kennedy, O.B.E., M.Inst.C.E., M.I.E.E. Mr. R. T. G. French, O.B.E.
Federation of British Industries ...	Mr. R. G. Glenday, M.C.
*Food, Ministry of ...	Mr. J. P. R. Maud.
Forestry Commission ...	Sir Roy L. Robinson, O.B.E. Mr. A. G. Herbert, O.B.E.
Gloucestershire County Council ...	Mr. Gordon E. Payne, F.S.I., M.T.P.I., M.Inst.M. & Cy. E.
Health, Ministry of ...	Mr. J. C. Wrigley, C.B. Mr. R. G. S. Hetherington, C.B., O.B.E., M.Inst.C.E. Mr. G. C. North, M.C.
Housing Centre ...	Miss J. Adburgham, L.R.I.B.A., A.M.T.P.I. Miss M. C. Solomon. Mr. Norman Bamforth.
Joint Committee of Open Air Organi- sations.	Mr. John Cadbury. Mr. E. C. Gatliff. Mr. E. P. Lindsay. Mr. G. R. Mitchell. Mr. Laurence E. Morris. Mr. Kenneth Spence.
Labour and National Service, Minis- try of.	Mr. H. H. Wiles. Mr. E. C. Ramsbottom, C.B.E.
Land Settlement Association Ltd....	Mr. J. Walley.
Land Union ...	Mr. A. C. Richmond. Dr. Clare Burgess.
	The Marquess of Exeter, K.G., C.M.G. Lord Brocket. Mr. J. P. Rhys, F.S.I., A.M.T.P.I.
National Council of Social Service ...	Professor W. G. S. Adams, C.H., LL.D., M.A., D.C.L. Mr. G. E. Haynes. Mr. R. S. Langford. Mr. L. Shoeten Sack, O.B.E.

<i>Department or Organisation.</i>	<i>Witnesses.</i>
National Farmers Union	Mr. C. Nevile. Mr. Thomas Peacock. Mr. Harry German. Mr. Cleveland Fyfe, C.B.E.
National Federation of Women Institutes.	Mrs. Vernon. Miss Edith Walker. The Hon. Francis Farrer. Mrs. Neville-Smith.
National Gas Council, the	Mr. Stephen Lacey. Mr. Leslie Hardern. Miss J. Money Penny.
National Playing Fields Association...	The Lord Chief Justice (The Rt. Hon. Viscount Caldecote). Sir Lawrence Chubb.
National Trust	Mr. D. M. Matheson.
National Union of Agricultural Workers.	Mr. Arthur Holness. Alderman G. E. Hewitt.
New Wales Union	Dr. Gwenan Jones, M.A. Mr. Moses Griffith, M.Sc. Mr. T. I. Ellis M.A.
Northamptonshire County Council...	Mr. H. W. J. Heck M.T.P.I. M.Inst. M. & Cy. E.
North Eastern Trading Estates, Ltd.	Lt.-Col. M. D. Methven, O.B.E.
Nuffield College Social Reconstruction Survey.	Mr. G. D. H. Cole, M.A.
Research Group on Rural Planning, Manchester University.	Professor R. A. Cordingley, M.A., F.R.I.B.A. M.T.P.I. Mr. A. Johnson, M.Sc., A.M.Inst.C.E., Mr. G. Conzen, A.M.T.P.I.
Royal Institute of British Architects	Mr. W. R. Davidge, F.R.I.B.A., F.S.I. M.T.P.I. Dr. Charles Holden, F.R.I.B.A. Dr. H. V. Lanchester, F.R.I.B.A.
Rural District Councils Association	Sir Percy Hurd, M.P. Mr. Neville Hobson, M.C., J.P. Mr. A. D. Bruce-Roberts, J.P. Mr. W. R. Allerton. Mr. J. J. McIntyre, O.B.E.
Rural Industries Bureau	Sir William Dampier, Bart., F.R.S., D.Sc. Major Longden. Mr. A. T. Moore.
Stewarts and Lloyds, Ltd., Messrs....	Mr. A. C. Macdiarmid. Mr. J. R. Menzies-Wilson. Mr. G. Le Mare.
Town and Country Planning Asso- ciation.	Lord Harmsworth. Mr. F. J. Osborn.
Town Planning Institute	Mr. R. H. Mattocks, M.T.P.I. Mr. W. Dobson Chapman, L.R.I.B.A., M.T.P.I. Mr. Alfred Potter, L.R.I.B.A., M.T.P.I.
Urban District Councils Association...	Mr. Ernest King. Mr. Swallow.
Wales Survey Board	Mr. Peter Scott. Mr. T. Alwyn Lloyd, J.P., F.R.I.B.A., P.P.T.P.I. Mr. Moses Griffith, M.Sc.
War Transport, Ministry of	Mr. P. Wilson.
Welsh Land Settlement Society, Ltd.	Captain Geoffrey Crawshay, J.P. Mr. Bean.
West Midland Group for Post-War Reconstruction and Planning.	Professor P. Sargant Florence, Ph.D. Mr. K. M. Buchanan, B.A. Mr. G. W. Cadbury. Mr. A. W. McPherson, B.Sc. Mr. C. B. Parkes, L.R.I.B.A.
Wisbech, the Borough of	Mr. Clive Powell. Mr. E. T. R. Hall, Mayor. Mr. A. E. Collett. Mr. J. E. Siddall, L.L.M., D.P.A.

(B) WITNESSES APPEARING IN AN INDIVIDUAL CAPACITY.

Professor A. W. Ashby, M.A.
 Mr. Douglas R. Bomford.
 Mr. George Cadbury.
 Mr. George W. Cadbury.
 *Dr. Leslie F. Church, B.A.
 Mr. G. D. H. Cole, M.A.
 *Miss Elizabeth Denby.
 Professor F. L. Engledow, C.M.G., M.A.
 Mr. A. M. Trustram Eve, K.C.
 Sir Robert Greig, M.C., LL.D., D.Sc., F.R.S.E.
 Dr. E. R. Morgan, Archdeacon of Winchester.
 Mr. Henry Morris, C.B.E., M.A.
 Dr. C. S. Orwin, M.A.
 Mr. G. L. Pepler, F.S.I., P.P.T.P.I.
 Sir E. John Russell, O.B.E., D.Sc.
 Professor J. A. Scott-Watson, M.A.
 Sir R. George Stapledon, C.B.E., M.A., F.R.S.
 Sir Cecil M. Weir, K.B.E., M.C.
 *Captain R. G. M. Wilson.

* Oral evidence only.

2. WRITTEN EVIDENCE OR MEMORANDA.

(A) GOVERNMENT DEPARTMENTS AND OTHER ORGANISATIONS.

Aircraft Production, Ministry of.
 Auctioneers and Landed Property Agents, Incorporated Society of.
 British Chambers of Commerce, Association of.
 Camping Club of Great Britain and Ireland.
 Civil Engineers, Institution of.
 Corsham Parish Council.
 Demographic Survey and Plan.
 Free Church Federal Council.
 Friends of the Lake District.
 Hundred New Towns Association.
 Land Agents' Society.
 Milk Marketing Boards.
 National Allotments Society.
 National Federation of Housing Societies.
 National Parks, Standing Committee on
 Pennine Way Association,
 Peak District National Park, Joint Committee for the.
 Public Utility Associations, Conjoint Conference of
 Ramblers' Association.
 Royal English Forestry Society.
 Royal Scottish Forestry Society.
 Rural Reconstruction Association.
 Slough Trading Estates, Ltd.
 Supply, Ministry of
 Transport and General Workers' Union.
 Works and Planning, Ministry of.
 Yorkshire and Monmouthshire Rural Community Councils and E. Monmouthshire Joint
 Planning Committee.
 Youth Hostels Association (England and Wales).

(B) INDIVIDUALS SUBMITTING WRITTEN EVIDENCE OR MEMORANDA.

Dr. K. E. Barlow.
 Professor C. B. Fawcett, D.Sc.
 Mr. H. Rolf Gardiner.
 Mr. A. S. Haynes.
 Mr. G. H. Jack, F.R.I.B.A., M.Inst.C.E., F.S.A.
 Mrs. M. Laffan.
 The Most Reverend Archbishop Lord Lang of Lambeth, G.C.V.O.
 Mr. Hugh O. Roberts, A.R.I.B.A.
 Professor G. W. Robinson.
 Captain J. C. Robinson.
 Mr. B. Seeböhm Rowntree, J.P.
 Mr. Gordon Russell.
 Mr. F. G. Thomas, M.A.

INDEX.

All references are to paragraphs. The more important references are in heavy type. Recommendations are also in heavy type.

- Abercrombie, Professor 147.
- Access to countryside 175.
- Access to Mountains Act, 1939 175.
- Achievement, pride in 194.
- Acts of Parliament, for town planning reviewed 139.
- Addison, Lord, Introduction.
- Advertisements 80, 214.
 - control of 214.
 - Recommendations 214.
- Advertisement Regulation Acts, 214.
- Advisory Panels 96, 162.
- Aerodromes 82, 209.
 - agricultural labour on 124.
 - land taken for 209.
 - restoration of 209
 - statistics of 88.
 - type of land required 209.
- Agriculture, Introduction.
 - ignored by 1932 Act 141.
 - in Rural Zone 145 footnote.
 - present position of 108.
 - prosperous 155, 158.
 - value of output 9 footnote.
- Agriculture, Future of 172.
 - capital needs 172.
 - efficiency 172.
 - Government policy 172.
 - nutritional needs 172.
 - output per man 172.
 - proper farming 172.
 - stability of conditions 172.
 - yield per acre 172.
- Agriculture, Ministry of
 - in relation to national planning 226.
- Agricultural buildings 96, 164.
 - exempt from control 96.
- Agricultural changes 44 *et seq.*
- Agricultural considerations in planning 89.
- Agricultural Executive Committees 108, 123.
- Agricultural implements 41, 112.
 - repair of 112.
- Agricultural implement manufacture 199.
- Agricultural land
 - proportions of total 8.
- Agricultural land, areas 8, 15, 46.
- Agricultural land, loss of 88.
 - during war 118-9.
 - lying idle 90.
 - quality of 89.
 - selection of 119-120.
 - statistics 88.
- Agricultural land, value of 15.
 - areas of 15.
 - high quality of 15.
- Agricultural land, waste of 71.
- Agricultural policy excluded 158.
- Agricultural values ignored by 1932 Act. 141.
- Agricultural value of land 15.
- Agricultural wages 112.
- Agricultural Wages (Regulation) Act of 1924 48.
- Agricultural workers 51.
 - statistics 51
- Agricultural Workers, Union of 69.
- Allotments 202.
 - Recommendation 202.
- Allotment Societies 115.
- Amenities, preservation of 155, 160.
- Amusements in villages 68.
- Analgesia 67.
- Appeal, right of 235.
- Appeals and Consents 235.
- Apprenticeship to craftsmen 194.
 - Recommendation 194.
- Arable acreage 46.
- Arable farms 21.
- Arable lands 19, 21.
- Arable land, productivity of 109.
- Arboriculture 173.
- Architects, panels of 162, 164.
 - Recommendation 162.
- Architects, status and training of 240.
- Architectural Association 162.
- Areas occupied by towns, etc. 6, 8, 15.
 - increase of 6.
- Argentina 45.
- Assessment 162.
- Assumptions 155 *et seq.*
- Australia 45.
- Bagshot 20.
- Barley 18.
- Barlow Commission (Royal Commission on the Distribution of the Industrial Population) 72, 128, 138, 147, 185.
 - on concentration of industry 185.
 - Minority Report 226.
- Basic assumptions 155 *et seq.*
- Basic industries, decline 128.
- Baskets 29.
- Basket makers 194.
- Bathrooms 63.
- Beauty, preservation of 231.
- Beauty-spots 74, 193.
- Bedroom accommodation 63.
- Beet-sugar 192, 197.
- Belgium 3.
- Berkshire 18.
- Best agricultural land, competition for 89.
- Betterment page 125.
- Bicycles 68.
- Billeting 113.
- Billingham 190.
- Birmingham 4, 41, 78, 128, 131, 161, 191, 192.
- Blacksmith 39, 53, 70, 112, 194.
- Board of Education 170, 175.
- Board of Trade, 122.
- Boom of 1920's, 138.
- Boot and shoe industry 192, 197.
- Bottles, 175.
- Boundaries, farm 123.
- Bowls, 69.
- Boy Scouts 69.
- Bracken 14.
- Bradford 4.
- Brecon 225.
- Brewing 41.

- Brewing industry 170.
- Bricks, 188.
- Bridges 211.
- Bridges, railway 211.
- modern 211.
- road 211.
- Bridle paths 176.
- British Electrical Development Association 65.
- British Legion 69.
- Brotherhoods 170.
- Builder 39, 53.
- Building boom of 1920's 138.
- Building programme needed 162.
- Building stones 188.
- Bungalows 75.
- Bungalows, week-end 11.
- Bus services 68, 75.
- Bus shelters 213.
- Butchers 39.
- By-passes 83, 206, 211.
- Recommendation** 206.
- Cafés 80, 195.
- Cafés, wayside 213.
- Recommendation** 213.
- transport 213.
- Cambridgeshire 70, 170.
- village colleges, 70, 170.
- Camp sites 180.
- Camps 80, 81, 180.
- Camps Act, 1939 180.
- Canada 45.
- Canteens 170.
- Capital, locking up of 47.
- Capital, need of 55, 172.
- Caravans 80.
- Cardboard box manufacture 191.
- Carnegie U.K. Trust 70.
- Car parks 213.
- Carpenter 53, 70, 112.
- Cash crops 18.
- Casual labour 197.
- Catering industry 170.
- Cattle 17, 19.
- Cement 188, 189, 190.
- Cemeteries 215.
- Recommendation** 215.
- Central Planning Authority 155, 156, 216-226.
- Central Planning Commission, 221, 226.
- Centrality of location 192.
- Chain makers 194.
- Chalk 188.
- Chalk Belt 18.
- Changes in farming 44 *et seq.*
- Chapels 39, 69, 170.
- Cheap food imports 45.
- Chemicals 190.
- Cheshire 17, 225.
- Childbirth 67.
- Chilterns 18.
- Church, influence of 39, 68.
- Churches 39, 69, 170.
- Cinemas 195.
- Civil aerodromes 209.
- land for 209.
- Civil Defence 115.
- Class of roads 211.
- Classes 69.
- Classification of land 15.
- Classified roads 151.
- Clay 188.
- Climate 17, 21.
- Climatic differences 17, 21.
- Clinics 170.
- Clothing industry 192.
- Clubs 69, 170.
- Coal 130, 188.
- Coast of England and Wales 178.
- Recommendation** 178.
- Coastguards' path 176.
- Coast line spoliation 136.
- Collaboration of Ministry of Agriculture 202.
- Collaboration of planning authorities 148.
- Colliery tips 94.
- Colours of advertisements 214.
- Colours of telephone booths 214.
- Commerce, encouragement of 155, 157.
- Commission, Central Planning 221, 226.
- duties 221.
- function 221.
- research 221.
- work 221.
- Commission, War Damage 226.
- Commissioners, Planning 224.
- Assistant 224.
- Welsh 225.
- Committee of Ministers 218, 221.
- Commons 178.
- Recommendation** 178.
- Commons and Footpaths Preservation Society 176.
- Commoners' rights 178.
- Community centres 170.
- Compensation (1932 Act) 142.
- Concrete houses 207.
- Concrete runways of aerodromes 209.
- Conditions, default of 159.
- Consents and Appeals 235.
- Constructional development, effects of 91-92.
- Consultation between Ministries 121, 123.
- Control of land 236.
- Conurbations 4.
- Cooperation 115.
- Cooperative holdings 55.
- Copses 29.
- Corby 189, 190.
- Corn 18.
- Corn and sheep farms 19.
- Corn Laws 45.
- Corn Production Acts 46 footnote.
- Cornwall 189.
- Corrugated iron 96.
- Cosmetics, industry 192.
- Cottages, restoration of 162.
- Cottages, rural 62, 63.
- needs of 63.
- reconditioning of 64.
- Cottages, use by week-enders 61, 86.
- Cotton industries 190.
- Council for the Preservation of Rural England 96, 160, 165.
- Council for the Preservation of Rural Wales 160.
- Council houses, unsuitable 162.
- Council housing 74.
- Country dwellings 145.
- Country life 155, 159.

- Countryside man-made 160.
 cannot be "preserved" 160, 174.
 complex pattern 160.
 maintenance by farming 160.
 recent origin of 160.
 types of 160.
 Countryside a heritage 160.
 Countryside after the war 137.
 Countryside, definition 5 footnote.
 Countryside, description 11, 12, 44.
 Countryside
 effects of urban growth 88 *et seq.*
 Countryside, pattern of 9 *et seq.*
 County War Agricultural Executive Com-
 mittees 108, 111, 123.
 Cowman 60.
 Crafts, village 53, 112.
 Craftsmen 39, 53, 70, 112.
 shortage of 112.
 Cricket 69.
 Cumberland, 18.
 Curtilage 145, 146.
 Cyclists' Touring Club 175.

 Dairying 17, 18, 22.
 Dances 69.
 Dartmoor 231
 Darts 69.
 Dean, Forest of 20.
 Death duties 47.
 Declared value pages 124, 125.
 Decline in basic industries 128.
 Deep workings 189.
 drainage 189.
 Defence units 113.
 Defence works 210.
 Recommendation 210.
 removal of 210.
 Density zoning 144, 145.
 Depopulation, 51, *et seq.*
 causes 54.
 Depressed areas 78.
 Depression, agricultural 50, 51, 53.
 Derelict industrial area: redevelopment 199.
 Derelict land 71, 90.
 Derelict land restored 108.
 Derelict sites 129.
 Design of villages 205.
 of new buildings 207.
 Developed land, proportions of 9.
 Development 141, 142.
 Development Commission 70.
 Development defined 217.
 Development distinct from planning 217.
 Development if no regulation 161.
 effects of 161.
 Devonshire 64, 162.
 Discontent in countryside 98.
 Discontent through women in industry 199.
 Disfigurement of beauty 80.
 Dislocation of farms 91.
 Dispersal of industry 130, 132, 159, 161.
 Dispersal of industry affecting mobile in-
 dustries 192.
 Dispersed settlements 33.
 Ditching 111.
 Dogs 100, 175.
 Dorset 18.
 Dovedale 231.

 Drainage, grants 49.
 Drainage interrupted by subsidence 94.
 Drainage works 111.
 Dramatic societies 69, 170.
 Drift from the land 51 *et seq.*
 causes 54, 67, 97.
 Drift of population 159.
 causes 159.
 stopping of 159.
 Drop forging 191.
 Dudley, Earl of 162 footnote.

 East Anglia 160.
 East Anglia: labour conditions 197.
 Economic effects of industry in countryside.
 125.
 Eden Valley 18.
 Education authorities 69.
 Education, difficulties in country 67.
 Education, Ministry of
 in relation to national planning 226.
 Effects of factory location in countryside 199.
 Effluents 93.
 Electrical Development Association 65.
 Electricity 59, 65, 104-5, 165.
 Recommendation 165.
 Electricity Commissioners 165.
 Electricity undertakings 193.
 Electrification, statistics of 65.
 Ely, Isle of 19.
 Employment, seasonal 197.
 casual 197.
 part-time 197, 198.
 peak periods 197.
 trough periods 197.
 women 197.
 Encouragement of Industry 155, 157.
 Equality between town and country 182.
 Estates, break up of 68.
 Evacuation 114.
 Evesham, Vale of 19.
 Eviction 58, 90.
 Excessive zoning 144, 147.
 Executive planning committees 140.
 Exmoor 160.
 Ex-service men's holdings 55.
 External economies 191.
 Extractive industries 94, 187, 188.

 Factories in the countryside 101-106, 196,
 199.
 advantages brought by 199.
 effects of 104, 105, 125, 199.
 experience of industrialists 196.
 female labour 103.
 juvenile labour 103.
 siting of 105-6, 125, 128.
 size of 105.
 types of 103.
 Factories, new 78.
 sites of 78.
 statistics of 78.
 Factories, war-time 133, 101.
 future use of 133.
 Factors of industrial location 199
 Factory smoke 93.
 dust 93.
 effluents 93.
 fumes 93.

- Factory and storage control 122.
- Factory layout 196.
- Family industries 194.
- Family, restriction of 63.
- Farmers, number of 5.
- Farmhouse, siting of 32.
- Farming
 - changes in 44 *et seq.*, 158.
 - economic factors in 22.
 - improvement of methods 108.
 - improvement of standards 108.
 - interdependence of 21.
 - interdependence of types 158.
 - organisation excluded 158.
 - policy excluded 158.
 - radical changes unlikely 158.
 - stability of 158.
 - structure of 32.
 - traditional types of 21.
 - types of 17-20, 158.
- Farming units, breaking up of 233
- dislocation of 123.
- Farms—
 - disruption by building 91.
 - mortgaging of 47.
 - size of 29, 30.
 - value of output 9 footnote.
- Farm Survey, Ministry of Agriculture 241.
- Fattening 17.
- Federation of Women's Institutes 63.
- Feeding stuffs, home production 110.
- Feeding stuffs, imports 28, 45.
- Fell, 20.
- Fences 29.
- Fences, repair of 111, 112.
- Fens 15, 19, 160.
- Fertilisers 28.
- Fertilisers, grants for 49.
- Fertiliser manufacture 199.
- Fertility of land 15.
- Feudalism 25, 33.
- Filling stations, 80, 212.
- Fish canning 197.
- Fish curing 197.
- Five Year Plan 241, Part IV.
- Flats, statistics 76.
- Flax processing 192.
- Food, home production 108, 110
- Football 69.
- Footloose industries 187, 192.
- Footpaths 176.
 - mapping of 176.
 - new 176.
 - recording of 176.
 - signposting 176.
 - upkeep of 176.
- Footpaths Commission 176.
 - duties 176.
 - powers 176
 - Recommendation 176.
- Foreman 55.
- Forest clearance 25.
- Forest of Dean 20, 173.
- Forest Parks 173, 178
- Forest Zones, National 230.
- Foresters' holdings 173.
- Forestry 145, footnote 173.
- Forestry Commission 173, 178, 230.
 - long-term policy 230.
 - statistics 230.
- France 3.
- Free cottages 163.
- Fruit 18.
- Fruit canning 192, 196, 197, 199.
- Fruit picking 197.
- Fumes 93.
- Furniture industry 192, 199.
- Furniture makers 194.
- Future of Agriculture 172.
- Garage mechanics 112.
- Garages 195.
- Garages, village 70.
- Garden cities 199.
 - effect on countryside 201, 203.
 - Recommendation 203.
- Gas 166.
 - Recommendation 166.
- Gasholders 166.
- Gas supplies 65, 104-5.
- Gas undertakings 193.
- Gas works, location 193.
- Gates, leaving open 175, 176.
- Gates, repair of 111, 112.
- Gateshead (Trading Estate) 79.
- Generating stations, location 193.
- Geological Parks 179.
- Georgian building 42.
- Germany 3.
- Girl Guides 69.
- Glasshouses 19.
- Glove making 199.
- Golf courses 82.
- Good agricultural land 203.
 - conservation of 232.
 - new settlements away from 203.
 - Recommendation 203.
- Good land, area of, 15.
- Good soil, conservation of 202.
 - Recommendation 202.
- Government machinery for planning 216-226.
- Grants 49.
 - drainage 49.
 - fertiliser 49.
 - lime 49.
- Grass dairying 17.
- Grass farms 21.
- Grassland 17, 21.
 - acreage 46.
 - ploughing up 109.
 - productivity 109.
- Gravel 188.
- Gravel dredging 94.
- Grazing 17.
 - importance of 14.
- Greater London 4.
- Greens 37.
- Green Belts 202.
 - definition 202 footnote.
 - delimitation 202.
 - Recommendation 202
- Green lanes 177.
- Greenwood, Mr. A. 158.
- Grocers 39.
- Guilds 170.

- Guilds of Craftsmen 194, 211.
 apprenticeship 194.
 Recommendation 194.
- Haldane Committee on Government 226.
 Halls, village 116, 170.
 wardens for 170.
 Hampshire 18.
 Hand-made goods 194.
 Health, Ministry of
 in relation to national planning 226.
 Heath 15, 20, 59.
 Healthy agriculture 158.
 Heavy industries 190.
 decline 128, 130.
 revival 130.
 Hedges 173.
 breaking of 176.
 Hedging 111.
 Herefordshire 18, 211, 225.
 bridges 211.
 Heritage of the countryside 160.
 Hikers highways 176.
 Hill and Dale 189.
 Hoardings 214.
 Hoeing 197.
 Holdings, size of 30.
 Holiday camps 81, 136, 180.
 Holiday villages 180.
 Holidays with pay 136, 180.
 Holland 3.
 Home Guard 69, 115, 170.
 Home ownership 163.
 Home production of food 108, 110.
 Hops 18.
 Horizontal layout of factories 196.
 Horseman 60.
 Horticulture 145 footnote.
 Hosiery industry 192, 199.
 Hostels 117.
 Hotel industry 170.
 Hotels 195.
 Houses, shortage of, 56.
 standard of 56.
 Housing Acts 62, 64.
 Housing and Town Planning Act (1909) 139.
 Housing Committees 162.
 women members 162.
 Housing, etc. Act (1923) 139.
 Housing in the countryside, 102, 200-207.
 Housing of Rural Workers Acts, 64, 162, 163.
 Housing, rural 56, 162.
 area 162.
 costs 162.
 design 162.
 interior 162.
 Housing, Town Planning, etc. Act (1919) 139.
 Hudson, Mr. Introduction.
 Hurdles 29.
 Hurdlemakers 194.
- Imitation in building 205.
 Immobile industries 187, 190.
 Impington Village College Introduction.
 Individual case method 229.
 Inclosure movement 25, 26.
 Inclosures 26.
 Incongruous buildings 96.
 Individualism 115.
- Industrial centres, newer 128.
 older 129.
- Industrial location 186 *et seq.*
 Industrial revolution 77.
 new 77.
- Industrialists, goodwill of 157.
 attitude to planning 157.
 work of 157.
- Industry
 classification of 187.
 dispersal of 130, 132, 159, 161.
 disturbance of rural life 97.
 encouragement of 155, 157.
 location of 78, 128.
 movements of 77, 78, 128.
 value of output 9 footnote.
- Industry in the countryside 125, 181-199.
 conditions of introduction 181, 182, 183.
 economic effects 125.
 social effects 125.
- Inequalities between town and country 159
 161, 174, 182.
- Inns, village 170, 195.
 Innkeepers 39.
 Institute of Master Builders 96.
 Institutions, village 170.
 Interim Development 234.
 period 234.
- International trade 28.
 Iron and steel 190.
 Iron ore 188.
 Iron ore workings 94, 189.
 Isle of Ely 19.
 Isolationism 115.
 Italy 3.
- Jam making 192, 196, 197, 199.
 Joint planning committees 148.
 Jurassic iron ores 189.
 Juveniles, employment of 103, 199.
- Kennet Committee 189.
- Labour costs 48.
 Labour pools 192.
 Lake District 17, 231.
 Lancashire 19, 94, 189, 225.
 Land area 3, 7, 8.
 England 3.
 England and Wales 3, 7, 8.
 Land classification 6, 15, 202.
 Recommendation 202.
- Land, drift from the 51 *et seq.*
 causes 54, 67, 97.
- Land ownership 23.
 Land Planning 232.
 all considerations 232.
- Land Planning, National 228.
 Land Rights, undeveloped 237.
- Landscape
 changes in 14.
 description of 11-14.
 not static 44.
 origin of 13, 24.
 pattern 24.
- Landscape Improvers 26.
 Land use, stability of 158.
 variations in 158.
- Land Utilisation Survey 15, 17, 232.

- Laundries 195.
- Lead mining 189.
- Leather goods 194.
- Lea Valley 19.
- Leeds 4.
- Leicestershire 17.
- Level crossings 211.
- Levelling of tipheaps 94.
- Light industries 128, 130, 196.
- Lime, grants for 49.
- Limestone 188.
- Lincolnshire 19.
- Linked industries 187, 191.
- Linny 162.
- Litter 100, 175.
- Liverpool 4, 19, 225.
- Local Government Act (1929) 139, 148.
- Local material in building 207.
- Local Planning 221, 223.
 - code 224.
 - Compulsory 223.
 - consultation 224.
 - expenses 224.
 - functions 224.
 - personnel 223.
 - powers 228.
 - unit areas 223.
- Location of factories in countryside 196, 199.
 - effects of 199.
- Location of industry 186 *et seq.*
- London 4, 78, 128, 131, 161, 185, 192.
- London Passenger Transport Board 213.
- Lord of the Manor 33.
- Loss of agricultural land 6, 88.
 - statistics 83.
- Loss of land from agriculture 6, 88.
- Machinery of planning 216-226.
- Mail-order system 43.
- Main roads 211.
- Managers 55.
- Manchester 4.
- Manners, lack of 100.
- Manorial system 25, 26, 33, 68.
- Manors 23, 25, 33.
- Manufacturing, importance of, 10, 186.
- Manure 28.
- Maps 239.
 - Recommendation 239.
 - Scale of 1 : 25,000 239.
- Market gardening 19, 22, 89.
- Market gardens, good soil for 202.
 - Recommendation 202.
- Market towns 40, 41.
- Marketing of hand-made articles 194.
- Marshes 20.
- Mass-production 70.
- Mechanics 112.
- Mechanisation 48, 112.
- Mentalities: urban and rural 99, 102, 114, 125.
- Metalliferous ores 188.
- Midlands 15, 128, 161.
- Milk processing factories 196, 197.
- Milling 41.
- Minerals, winning of 145.
- Mines, value of output 9 footnote.
- Mining and quarrying 188.
 - Mining and surface drainage 189.
 - Recommendation 189.
 - Ministerial Committee 218, 221.
 - Minister of National Organisation 219.
 - Minister of National Planning 218-9, 222.
 - Ministry of Agriculture 123, 162, 167, 170.
 - Ministry of Health 162.
 - Ministry of Transport 212.
 - Ministry of Works and Planning 121, 210.
 - Mixed farming 18, 28, 29.
 - Mobile industries 187, 192.
 - Mobility of industry 78, 192.
 - Model Clauses 145 footnote, 146.
 - Moderate quality land 15.
 - Modern building 205, 207.
 - Modern factories, highly organised 196.
 - Montgomery 225.
 - Moorland 15, 20.
 - Morris, Mr. Henry Introduction.
 - Mortgaging of farms 47.
 - Motoring 135.
 - Motoring organisations 175.
 - Motorists 175.
 - Mountain sheep farming 178.
 - Munitions works 113.
 - Musical societies 170.
 - National Council of Social Service 53, 70, 170.
 - National Federation of Women's Institutes 170.
 - National Forest Parks 178.
 - National Forest Zones 230.
 - National Land Planning 228.
 - National Parks 178.
 - definition 178 footnote.
 - delimitation 178.
 - Recommendation 178.
 - National Parks Authority 178, 222, 231.
 - Recommendation 178.
 - National planning, no machinery in past 149.
 - National Planning Commission 226.
 - National Playing Fields Association 171.
 - National Recreational Zones 231.
 - National Trust 160.
 - National Zoning 229.
 - Nationalization of land 236.
 - Nature Reservations 179.
 - Recommendation 179.
 - Neglect of farming 50.
 - New Forest 15, 173.
 - New Zealand 45.
 - Nodality of location 192.
 - Norfolk 19.
 - North Wales 225.
 - North Wales: industries 129.
 - Northamptonshire 17, 94.
 - Nottinghamshire 19.
 - Noxious fumes 93.
 - Nucleated settlements 33.
 - Nuffield College Social Reconstruction Survey 241.
 - Nutritional needs 172.
 - Oil refining 190.
 - Onus of Proof 233.
 - Open-air organizations 85, 175.
 - Open-cast mining 188.
 - Open-cast working 94.
 - Open countryside, definition 5 footnote.
 - Open fields 25.

- Ordnance survey 239.
- Recommendation 239.**
- Outskirts, industries in 192, 199.
- Overspill 88.
- Ownership of land 23, 236.
 - private 236.
 - public 236.
- Panels, advisory 162.
- Panels (advisory) of architects 96
- Panels of architects, etc. 162, 164, 205.
- Recommendation 162.**
- Paper making 190.
- Parish councils 170.
 - duties 170.
 - election 170.
- Parity between town and country 182.
- Parks 13, 23, 26.
 - type of land 23.
- Parlour 162
- Part-time employment 197, 198.
- Pattern of countryside 11-14.
- Peak periods of employment 197.
- Pembrokeshire 41.
- Pembrokeshire coast 231.
- Pennines 17, 189.
- Pennine Way 176.
- People's Refreshment Houses Association 170.
- Pepper-pot development 146.
- Petrol stations 80, 212.
 - control of 212.
- Recommendation 212.**
- Petroleum (Consolidation) Act, 1928, 212.
- Pickle manufacturers 192.
- Pig keeping 202.
- Recommendation 202.**
- Pigs 19.
- Pisciculture, 145 footnote.
- Pits, abandoned 94.
- Planned villages 205.
- Planners, status and training of 240.
- Planning
 - authorities 148.
 - distinct from development 217.
 - national land 228.
 - officers 221.
 - schemes 139.
 - true functions of 217.
 - unsatisfactory nature of recent 147.
- Planning Commission 221, 226.
- Planning Division, Ministry of Works and Planning 241.
- Planning functions of Ministry of Health transferred 226.
- Planning machinery 156, 216 *et seq.*
- Planning, Minister of National 218-219, 222.
- Planning parks 121, 139 *et seq.*
- Planning of villages 164.
 - Recommendation 164.**
- Planning schemes
 - ill-balanced in past 149.
 - varied in quality 149.
- Plans, local 221, 223.
- Plastics industry 192.
- Playing fields 82, 171.
 - Recommendation 171.**
- Ploughing 109.
- Ploughing-up campaign 109.
 - grants 109.
- Poisonous effluents 93.
- Pontypridd 79.
- Poor land, area of 15.
- Population changes, Introduction
- Population densities 3, 5.
 - England 3.
 - England and Wales 3, 5.
- Population statistics 3, 5, 7, 8.
- Population under planning schemes 144.
 - future 144.
- Porch 162.
- Portal, Lord, Introduction.
- Posters 214.
- Potatoes 19.
- Potato harvesting 197.
- Poultry keeping 202.
 - Recommendation 202.**
- Prefabrication 162.
- Preservation of agriculture by zoning 144.
- Preservation of amenities 155, 160.
- Preservation of beauty 231.
- Preservation of countryside 174-180.
- Pre-war trends in development 161.
- Prices, agricultural 108.
 - fixing of 108.
- Principles of planning, formulation 221.
- Procedure 227-240.
 - Importance 227.
- Productivity of land 15.
- Prohibition against building (1932 Act) 143.
 - liability to compensation 143.
- Promotion 53, 55.
- Proof, onus of 233.
- Prosperous agriculture 155, 158.
- Public utility undertakings 187, 193.
- Publicity campaign 175.
- "Push" and "pull" 52, 71.
- Quarries 94.
- Quarrying 188.
- Railways 211.
- Railway bridges 211.
- Rainfall 17, 21.
- Rallies 170.
- Ramblers' Association 85, 175.
- Ramsbottom, Laurance, Introduction.
- Rating page 125
- Razor blade industry 192.
- Rebuilding of damaged towns 202.
 - Recommendation 203.**
- Reclamation works 111.
- Recommendations 154 *et seq.***
- Recommendations dependent on collateral action 154.
- Reconditioning of cottages 64.
- Recreational facilities 105.
- Recreational zones, national 231.
- Reference, terms of Introduction 155.
- Regency building 42.
- Regional officers 234.
- Regional organisation of planning 224.
- Regional parks 178.
- Regional representatives 224.
- Registration of title 238.
 - Recommendation 238.**
- Reith, Lord Introduction 158.
- Rents 98, 105.
- Rents, economic 159.

- Rent Restrictions Act 58.
- Repairing buildings, etc. 111, 112.
- Research in planning 221.
- Reservation of agricultural land 142.
 - liability to compensation 142.
- Reservoirs 167.
 - access to 167.
 - siting 167, 193.
- Resolutions in town planning schemes 141.
- Restaurants, wayside 213.
- Restoration of cottages 162.
- Restoration of land 189.
- Restoration of land after the war 121.
- Restriction of building (1932 Act) 142.
- Restriction of family 63.
- Restriction of Ribbon Development Act (1935) 95, 150-153.
 - failure of 153.
 - purposes 151.
- Restriction of use of highways 177.
- Revivification of country 154-173.
- Ribbon development 36, 74, 75, 83, 95.
- Ribbon development, not restricted 95.
- Ribbon development, restriction 150-153.
- Rights of way, control of 177.
 - restriction of use 177.
- Roads 211
 - by-passes 211.
 - "classified" 151.
 - co-ordination of planning 211.
 - good and bad construction 211.
 - new main roads 211.
 - planning of 211.
 - standard widths 151.
- Road bridges 211.
- Road building, effect on farms 91.
- Road-houses 170.
- Road metal 188.
- Road planning 83.
- Roadside villages 36.
- Road widening 83.
- Rooted industries 187, 190.
- Rough grazings 8, 15, 45, 46.
- Royal Commission on the Distribution of the Industrial Population (Barlow Commission *q.v.*) 72, 128 138 147, 185.
- Royal Institute of British Architects 96.
- Rural and urban mentalities 175.
- Rural crafts 187, 194.
- Rural Community Councils 70.
- Rural cottages
 - needs of 63.
 - reconditioning of 64.
 - standards of 63.
 - statistics of building 62, 76
- Rural districts, 5 footnote.
 - population 5.
- Rural housing 56, 162.
 - use by town-dwellers, 61.
- Rural Industries Bureau 53, 70, 194.
- Rural industry, 145 and footnote.
- Rural mentalities 99, 114, 125.
- Rural population 4.
- Rural trades 112, 187, 194.
 - shortage of skilled men 112.
- Rural Water Supply Act 66.
- Rural Zone 145, 146.
- Saddlers 39 53, 70, 112, 194.
- Sale of land 90.
- Saltings 15.
- Sand 188.
- Satellite towns 199.
- Satellite towns: effect on countryside 201, 203.
- Recommendation, 203.
- Sauce manufacturers 192.
- Savings Committees 115.
- Scenic beauty 15.
- Schemes, town planning 140.
 - approved 140.
 - area covered by 140.
 - statistics 140.
- Schools, access to 59.
- School Journeys' Association 175.
- Scientific instrument industry 192.
- Scotland 241, Introduction.
- Scrub 14.
- Scunthorpe 189.
- Seasonal Employment 194, 197.
- Recommendation 197.
- Security of tenure of land 202.
- Recommendation 202.
- Service Ministries in relation to national planning 226.
- Settlements, dispersed 33.
 - nucleated 33.
- Severn road tunnel 225.
- Sewerage 66, 104-5, 169.
 - statistics of, 66.
- Sheds, need of 63.
- Sheep, 17, 18, 19.
- Sheep and barley farms 19.
- Sheep breeding 175.
- Shelters, bus 213.
- Sherwood Forest 19.
- Shipbuilding 130, 190.
- Shopping centres, access to 59.
- Shops 195.
- Shropshire 225.
- Signs 214.
- Sisterhoods 170.
- Siting of factories 105.
- Size of farms 29, 30.
- Skill, pride in 194.
- Slag heaps 94.
- Slum conditions 162.
- Slums 42.
- Small factories uneconomic 196.
- Small holdings 31, 55.
- Snack bars 80.
- Snowdonia 231.
- Social centres 116, 170.
- Social effects of industry in countryside 125.
- Social facilities 105.
- Social Service, National Council of 53, 70.
- Soil surveys 15, 229.
- Soil variations, very great 229.
- South-east 78, 128, 131.
- South Wales 78.
- South Wales: industries 129.
- Special areas 79.
- Specialized farming 46.
- Speculation in land 90.
- Speculative building checked 117.
- Speculative mining 189.
- Spinning 41.
- Spoil heaps 188.
 - afforestation 189.

- Spoilation of beauty 80.
- Sporadic building 74, 75, 204, likely after the war 135. should be directed to villages 204.
- Sports clubs 69.
- Sports grounds, statistics 88.
- Sprawl, urban 128, 138.
- Squirearchy 68, 170.
- State acquisition of land 236. of development rights 237. Recommendation 237.
- State purchase of land 236.
- Status and training of planners and architects 240.
- St. Davids 41.
- Sterilisation of land 90, 202 footnote.
- Stock breeding 21.
- Stockmen 60.
- Stonemasons 211.
- Storage, control of 122.
- Storage space, absence of 63.
- Storage units, location of 193.
- Strategic considerations 120.
- Strip cultivation 25.
- Structure of farming 32.
- Subsidies 49.
- Subsidy for housing 163.
- Surveys, agricultural, soil, and land classification Recommendation 202.
- Survey. Land Utilisation 15, 17, 232. Ordnance 239.
- Subsidence 94.
- Suburban villas 96.
- Suburbanisation 73, 74.
- Sugar-beet 19.
- Sugar confectionery industry 192.
- Sussex 18.
- Tanning 41.
- Taxation 47.
- Telephone 59.
- Telephone services 213. booths 213.
- Terms of reference, Introduction 155.
- Thatchers 70.
- Third bedroom 63.
- Tidal water 190.
- Tied cottages 32, 57, 58, 163.
- Tiles 188.
- Timber 173.
- Tin mining 189.
- Title registration of 238. Recommendation 238.
- Town and Country Planning Act (1932) 96, 121, 139, *et seq.*
- Town and Country Planning Advisory Committee 145.
- Town planners, training of 240.
- Town Planning Act (1925) 139, 140.
- Town planning, history 139, 141.
- Town planning schemes 140. approved 140. area covered by 140. Recommendations 202. statistics 140.
- Towns 4. areas occupied by 6, 8, 15. density per acre 202. density per acre in England, low 202. impact of 71 *et seq.* 97. marginal growth of, 161. margins for industrial location 105. market 40, 41. standard of 73.
- Townsmen in the country 84 *et seq.*
- Trades providing for the conveniences and necessities of life, 187, 195.
- Tradesmen in villages 39, 53.
- Trading estates 79, 133, 199.
- Trading estates, new 190.
- Tradition in building 207.
- Traditional materials in building 207.
- Training of planners 240.
- Transport 115.
- Transport, Ministry of War 212. in relation to national planning 226. felling 173. planting 173. trees 173.
- Treforest (Trading Estate) 79.
- Tremadoc 38.
- Trends: future 127 *et seq.* in development, pre-war 161. pre-war 127 *et seq.*
- Trespassers 100.
- Trespassing 175, 176.
- Trevelyan, G. M., quoted Introduction.
- Trough periods of employment 197.
- Trunk roads and footpaths 176.
- Trunk roads, new 211.
- Trust, National 160.
- Tumbledown pastures 45.
- Tyneside 4.
- Types of farming 17-20, 158. map page 8.
- Types of land 15.
- Undertakings (Restriction of Engagement) Order, 1940, 124.
- Undeveloped land rights 237.
- Union of Agricultural Workers 69.
- United States 3, 45.
- Untied cottages 163.
- Urban and rural mentalities 175.
- Urban growth 88 *et seq.*
- Urban mentalities 99, 114, 125.
- Urban population 4.
- Urbanisation 4, 6.
- Urbanisation, degree of 6.
- Use zoning 145.
- Uthwatt Committee 237.
- Valuation pages 124, 125.
- Vegetable canning 192, 196, 197, 199.
- Vegetables 18, 19.
- Vegetation surveys 15.
- Villages 33. amusements 68, 69. enclosed 37. functions 35. growth of 38. plans 35, 38. population of 5. roadside 36. site of 34.

- Villages—cont.**
 size of 196.
 squire 68.
 social structure 68, 69.
 tradesmen 39.
 Village craftsmen 194.
 Village colleges 70, 170.
 wardens for 170.
 Village design 205.
 principles 205.
 Village greens 37.
 Village halls 116, 170.
 wardens for 170.
 Village institutions 170.
 Recommendations 170.
 Village life 116, 155, 159, 170.
 Village plans 205.
 Village planning 205.
 Recommendation 205.
 Village sites, new 206.
 Villas 96.
 Yyrnwy, Lake 193.
- Wages** agricultural 54, 57, 112.
 disparity in 54, 159.
 industrial 54.
Wage costs 48.
Wales 17, 129, 225.
 special problems 225.
War impact of 107.
War conditions 107 *et seq.*
War Damage Commission 226.
War-damaged towns, rebuilding 202.
 effects of 202.
Wardens for village halls 170.
War: problems 126, 132.
War-time experience 132.
 factories 133.
War-time factories 117 161 190.
 disposal of 190.
 Recommendation 190.
War factories: labour 124.
Water 32.
Water supply 59, 65, 104-5 167.
 Statistics of 66.
Water supply companies 167.
Water supply undertakings 193.
Wayleaves 168.
 Recommendation 168.
- Wayside cafes** 80.
Weak administration, effects of 146.
Weaving 41.
Weeding 197.
Week-end habit 61, 74, 75, 86, 136.
 cottages 61, 74, 86.
Well-balanced agriculture 158.
Wells, H.G., quoted Introduction.
Wheat 18, 19.
Wheelwright 53, 70, 112, 194.
Widening of roads 83.
Wiltshire 18.
Wireless 68.
Wireless industry 192.
Wisbech 19.
Wolds 19.
Women, employment of 103, 199.
Women's Institutes 63, 69, 162, 170, 190.
Women's Land Army 112.
Wood carvers 70.
Wood in housing 207.
Woodland 8.
Woodland, use of 29.
Woodland in green belts 202.
 Recommendation 202.
Woodlands 173.
 control of 173.
 Recommendation 173.
Woodworking 192.
Woollen industries 170.
Workers, agricultural 51.
 statistics 51, 52.
Working for minerals 189.
Works and Planning, Ministry of 226.
Wrought iron work 194.
- Yeomen** 24 27.
Yorkshire 19.
Young Farmers Clubs 69.
Youth Hostels 136, 180.
Youth Hostels Association 85, 175.
- Zoning (1932 Act)** 142, 144.
Zoning excessive 144, 147.
Zoning local 186.
Zoning national 229.



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